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UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

JAMES A. DOERTY,

Plaintiff,

vs.

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

Defendants.

No.

**DEFENDANTS' NOTICE OF  
REMOVAL**

JURY TRIAL  
DEMANDED

**NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §§ 1332, 1441 and 1446, defendants DePuy Orthopaedics, Inc., DePuy, Inc., and Johnson & Johnson (collectively, “removing defendants”), hereby remove this action from the Superior Court, County of King, where it is currently pending, to the United States District Court for the Western District of Washington. As addressed below, diversity jurisdiction exists in this action. *See* 28 U.S.C. § 1332(a). In support of this removal, removing defendants state as follows.

**INTRODUCTION**

1. Plaintiff commenced this action on or about July 25, 2012, by filing a Complaint against the removing defendants in the Superior Court, County of King, bearing

1 case number 12-2-25288-2. Copies of all pleadings, processes, and orders in the state court  
2 are attached hereto as **Exhibit A**.

3 2. Plaintiff alleges that he suffered various injuries as a result of being implanted  
4 with a Pinnacle Acetabular Cup System (“Pinnacle Cup System”) manufactured and sold by  
5 DePuy. (*See* Complaint at ¶¶ 2-4.)

6 3. This is one of more than 2,000 similar cases pending around the country  
7 involving personal-injury allegations by plaintiffs who were implanted with a Pinnacle Cup  
8 System. On May 23, 2011, the Judicial Panel on Multidistrict Litigation issued an order  
9 establishing MDL No. 2244, In re: DePuy Orthopaedics Inc., Pinnacle Hip Implant Products  
10 Liability Litigation, before Judge Ed Kinkeade of the United States District Court for the  
11 Northern District of Texas. Removing defendants intend to seek the transfer of this action to  
12 that proceeding, and will shortly provide the MDL Panel notice of this action pursuant to the  
13 “tag-along” procedure contained in the MDL Rules.

14 4. As set forth more fully below, this case is properly removed to this Court  
15 pursuant to 28 U.S.C. § 1441 because the Court has subject-matter jurisdiction over this  
16 action pursuant to 28 U.S.C. § 1332, and removing defendants have satisfied the procedural  
17 requirements for removal.

18 **GROUND FOR REMOVAL**

19 5. This action may be removed under 28 U.S.C. § 1441(a) because the Court has  
20 original jurisdiction over this action under 28 U.S.C. § 1332(a)(1). There is complete  
21 diversity of citizenship between the parties, and the amount in controversy exceeds \$75,000,  
22 exclusive of interest and costs.

23 **A. Complete Diversity Of Citizenship Exists Between The Parties.**

24 6. Upon information and belief, at the time Plaintiff commenced this action, and  
25 at all times since, Plaintiff was and is a citizen of the State of Washington. (*See* Complaint at  
26 ¶ 1.)

1           7.       DePuy Orthopaedics, Inc. is, and was at the time plaintiff commenced this  
2 action, a corporation organized under the laws of the State of Indiana with its principal place  
3 of business in Warsaw, Indiana, and, therefore, is a citizen of the State of Indiana for purposes  
4 of determining diversity. (*See* Complaint at ¶ 7.) 28 U.S.C. § 1332(c)(1).

5           8.       DePuy, Inc. is, and was at the time plaintiff commenced this action, a  
6 corporation organized under the laws of the State of Delaware with its principal place of  
7 business in Warsaw, Indiana, and is therefore a citizen of the States of Delaware and Indiana  
8 for purposes of determining diversity. (*See* Complaint at ¶ 6.) 28 U.S.C. § 1332(c)(1).

9           9.       Johnson & Johnson is, and was at the time plaintiff commenced this action, a  
10 corporation organized under the laws of the State of New Jersey with its principal places of  
11 business in New Brunswick, New Jersey, and is therefore a citizen of the State of New Jersey  
12 for purposes of determining diversity. (*See* Complaint at ¶ 5.) 28 U.S.C. § 1332(c)(1).

13           10.       Thus, there is complete diversity among the parties.

14 **B.     The Amount-In-Controversy Requirement Is Satisfied.**

15           11.       The amount-in-controversy requirement for diversity jurisdiction is satisfied in  
16 this case because it is clear from the face of plaintiff’s Complaint that the “matter in  
17 controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.” 28 U.S.C.  
18 § 1332(a).

19           12.       Plaintiff alleges in his Complaint that he has suffered “[p]ast and future  
20 disability; pain, suffering, and disability both physical and emotional; and interference with  
21 the enjoyment of normal life activities.” (*See* Complaint at ¶ 12(e).)

22           13.       It is widely recognized that such personal-injury claims facially meet the  
23 \$75,000 jurisdictional threshold. *See, e.g., In re Rezulin Prods. Liab. Litig.*, 133 F. Supp. 2d  
24 272, 296 (S.D.N.Y. 2001) (finding that a complaint alleging various injuries from taking a  
25 prescription drug “obviously asserts a claim exceeding \$75,000”); *see also, e.g., Copley v.*  
26 *Wyeth, Inc.*, No. 09-722, 2009 WL 1089663 (E.D. Pa. Apr. 22, 2009) (denying motion to

1 remand); *Smith v. Wyeth Inc.*, 488 F. Supp. 2d 625, 630 (W.D. Ky. 2007) (“the Court finds  
2 that the Plaintiff’s allegations of permanent nerve damage, pain and suffering, punitive  
3 damages, and past and future medical expenses likely amount to claims in excess of  
4 \$75,000”).

5 14. Given plaintiff’s claim that he has suffered “[p]ast and future disability; pain,  
6 suffering, and disability both physical and emotional; and interference with the enjoyment of  
7 normal life activities,” it is evident that the amount of recovery sought by plaintiff exceeds  
8 \$75,000.

9 **C. The Other Prerequisites For Removal Have Been Satisfied.**

10 15. In addition to satisfying the requirements of diversity jurisdiction, removing  
11 defendants have satisfied all other requirements for removal.

12 16. DePuy Orthopaedics was served with plaintiff’s Complaint on August 13,  
13 2012. Defendant Johnson & Johnson was served with plaintiff’s Complaint on August 9,  
14 2012. Accordingly, this Notice of Removal is timely filed pursuant to 28 U.S.C. § 1446(b).

15 17. DePuy, Inc. has not been served with plaintiff’s Complaint. Nonetheless,  
16 DePuy, Inc. is a party to this removal with full reservation of its defenses as to service.

17 18. The Superior Court, County of King is located within the Western District of  
18 Washington. *See* 28 U.S.C. § 1441(a).

19 19. None of the removing defendants is a citizen of the State of Washington,  
20 where this action was brought. *See* 28 U.S.C. § 1441(b).

21 20. No previous application has been made for the relief requested herein.

22 21. Pursuant to 28 U.S.C. § 1446(a), copies of all process, pleadings and orders  
23 served upon removing defendants, which papers include the complaint, are attached  
24 collectively as **Exhibit A**. Pursuant to 28 U.S.C. § 1446(d), a copy of this Notice of Removal  
25 is being served upon counsel for plaintiff and a copy is being filed with the Clerk of the  
26

1 Superior Court, County of King where this action is currently pending (attached hereto as  
2 **Exhibit B**).

3 22. WHEREFORE, removing defendants respectfully remove this action from the  
4 Superior Court, County of King, bearing Number 12-2-25288-2, to this Court.

5  
6 DATED this 4<sup>th</sup> day of September, 2012.

7  
8 BENNETT BIGELOW & LEEDOM, P.S.

9  
10 By s/ William J. Leedom  
11 William J. Leedom, WSBA #2321  
Attorneys for Defendants

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CERTIFICATE OF SERVICE

The undersigned hereby certifies under penalty of perjury under the laws of the State of Washington, that she is now, and at all times material hereto, a citizen of the United States, a resident of the State of Washington, over the age of 18 years, not a party to, nor interested in the above entitled action, and competent to be a witness herein.

I caused to be served this date the foregoing in the manner indicated to the parties listed below:

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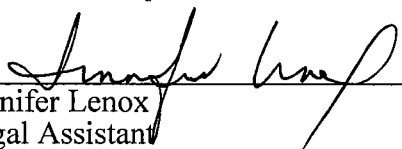
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Co-Counsel for Defendants

Dated in Seattle, Washington this 4<sup>th</sup> day of September, 2012.

  
Jennifer Lenox  
Legal Assistant

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