UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

WARREN BLANCHARD Jr. Plaintiff, v. DEPUY ORTHOPAEDICS, INC. and JOHNSON & JOHNSON SERVICES, INC. Defendants.	Civil Action No 2:16-cv-318 wks

COMPLAINT AND DEMAND FOR JURY TRIAL

NOW COMES the Plaintiff, Warren Blanchard, individually, by and through his attorney Matthew Hart Esq, and complains against the Defendants as follows:

PARTIES

1. Plaintiff Warren Blanchard is a resident of Bridgewater, Vermont.

2. Upon information and belief, Defendant Depuy Orthopaedics, Inc. is, and at all times relevant to this Complaint was, an Indiana Corporation with its principal place of business at 700 Orthopaedic Drive, Warsaw, Indiana 46581. Defendant DePuy Orthopaedics, Inc.'s registered agent for service is CT Corporation Systems, 251 East Ohio Street, Suite 1100, Indianapolis, IN 46204.

3. At all relevant times to this Complaint, Depuy Orthopaedics, Inc., designed, manufactured, tested, marketed, distributed and sold the metal-on-metal Pinnacle Device, either directly or indirectly, to customers throughout the United States, including the Plaintiff, Warren Blanchard Jr.

4. Defendant Johnson & Johnson Services, Inc. is, and at all times relevant to this Complaint was, a New Jersey Corporation with its principal place of business at One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933, and was the parent company of Depuy Orthopaedics, Inc. Defendant Johnson & Johnson Services, Inc. is and was at all times relevant

herein doing business in and/or having directed its activities at Texas, and specifically this judicial district. Defendant Johnson & Johnson Services, Inc.'s registered agent for service is Johnson & Johnson, One Johnson & Johnson Plaza, New Brunswick, New Jersey 08933.

5. At all relevant times to this Complaint, Defendant Johnson & Johnson Services, Inc., as the parent company of Depuy Orthopaedics, Inc., designed, manufactured, tested, advertised, marketed, distributed and sold the metal-on-metal DePuy Pinnacle Devices, either directly or indirectly, to customers throughout the United States including the Plaintiff, Warren Blanchard Jr.

JURISDICTION

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 there being amount in controversy in excess of $75,000.00 and this action being between citizens of different states.

FACTS

7. Plaintiffs allege on information and belief against Depuy Orthopaedics, Inc. and Johnson & Johnson Services, Inc. the following:

8. Defendants manufactured the metal on metal Pinnacle Hip Implant Device ("DePuy Pinnacle Device"). The Pinnacle Device was designed, developed, and sold for human hip joints damaged or diseased due to, among other things, fracture, osteoarthritis, rheumatoid arthritis, and vascular necrosis. The DePuy Pinnacle Device is designed to be fastened to human bone with surgical screws. The Depuy Pinnacle Device was designed and sold to provide pain relief and consistent and smooth range of motion. Defendants marketed the DePuy Pinnacle Devices as having significant advantages over other hip devices and hip replacement systems. Defendants also advertised and sold the DePuy Pinnacle Device as the

best surgical option that "recreates the natural ball-and-socket joint of your hip, increasing stability and range of motion."

9. On information and belief, Plaintiff alleges that Defendants were aware that the DePuy Pinnacle Device may result in aseptic lymphocytic vasculitis-associated lesions, metallosis, biologic toxicity and high failure rate. Plaintiffs further allege that the DePuy Pinnacle Devices result in unsafe release of toxic metal ions into hip implant recipients' tissue and bloodstream. Plaintiffs further allege that Defendants are aware the metal particles from DePuy Pinnacle Devices results in metallosis tissue death, bone erosion and development of tumors.

10. On information and belief, the implantation of DePuy Pinnacle Device results in the nearly immediate systemic release of high levels of toxic cobalt-chromium metal ions into every hip implant patient's tissue and bloodstream. This is because cobalt-chromium metal particles are released by friction from the metal femoral head rotating within the metal liner. The particles then accumulate in the patient's tissue surrounding the implant giving rise to aseptic lymphocytic vasculitis-associated lesions, metallosis, pseudotumors and other painful conditions.

11. On information and belief Plaintiffs further allege that Defendants are aware that DePuy Pinnacle Device recipients have elevated cobalt and chromium levels greatly exceeding acceptable safety standards as a result of the defective DePuy Pinnacle Devices.

12. On or about December 30, 2005 Plaintiff underwent a Right total hip arthroplasty; performed by Dr. Stephen Kantor at Dartmouth-Hitchcock Medical Center in New Hampshire. Depuy Pinnacle Devices were implanted in in Plaintiff's right hips.

13. After the surgery, friction and wear between the cobalt-chromium metal head and cobalt-chromium metal liner caused large amounts of toxic cobalt-chromium metal ions and metal particles to be released into Plaintiff's blood and tissue and bone surrounding the implants. As a result, Plaintiff, experienced severe pain and discomfort and inflammation in and around his implant.

14. After Plaintiff was implanted with the Pinnacle Devices and as a direct result thereof Plaintiff suffered elevated cobalt and chromium levels, aseptic lymphocytic vasculitis-associated lesions and a severe and painful reaction to metal debris in his hip joints.

15. As a direct result of chronic and debilitating pain and discomfort and other symptoms, Plaintiff, was required to undergo a revision surgery to replace the right hip implant on or about September 16, 2016. The revision surgery was performed by Dr. Wayne Moschetti M.D. at Dartmouth-Hitchcock in New Hampshire.

16. All the injuries and complications suffered by Plaintiff, were caused by the negligent and defective design of the DePuy Pinnacle Devices, lack of adequate warnings, construction and unreasonably dangerous character of the DePuy Pinnacle Devices that were implanted in him. Had Defendants not concealed the known defects, the early failure rate, the known complications and the unreasonable risks associated with the use of the DePuy Pinnacle Devices, Plaintiff, would not have consented to the DePuy Pinnacle Devices being used in his total hip arthroplasties.

COUNT I NEGLIGENCE

17. Defendants had a duty to exercise reasonable care in the designing, researching, manufacturing, marketing, supplying, promoting, sale, testing, quality assurance, quality control

and distribution of the Pinnacle Device into the stream of commerce, including a duty to assure that the device would not cause those who had it surgically implanted to suffer adverse harmful effects.

18. Defendants failed to exercise reasonable care in the designing, researching, manufacturing, marketing, supplying, promoting, sale, testing, quality assurance, quality control and distribution of the Pinnacle Device into interstate commerce. Defendants knew or should have known that those individuals who had the device surgically implanted were at risk for suffering harmful effects from it, including but not limited to partial or complete loss of mobility, loss of range of motion, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life. Additionally, Defendants knew or should have known about the harmful effects from the need for a revision surgery to replace the device with the attendant risks of complications and death from such further surgery.

19. The negligence of Defendants, their agents, servants and employees, included but was not limited to the following acts and/or omissions:

a. Negligently designing the Pinnacle Device in a manner that was dangerous to those individuals who had the device surgically implanted;

b. Designing, manufacturing, producing, creating and promoting the Pinnacle Device without adequately, sufficiently or thoroughly testing it;

c. Not conducting a sufficient testing program to determine whether the Pinnacle Device was safe for use;

d. Marketing and selling the Pinnacle Device when Defendants knew or should have known that it was unsafe and unfit for use because of the dangers to its users;

e. Selling the Pinnacle Device without making proper and sufficient tests to determine the dangers to its users;

f. Negligently failing to adequately and correctly warn Plaintiff or his physicians, hospitals and healthcare providers of the dangers of the Pinnacle Device;

g. Negligently failing to recall their dangerous and defective Pinnacle Device at the earliest date that it became known that the device was, in fact, dangerous and defective;

h. Failing to provide adequate instructions regarding safety precautions to be observed by surgeons who would reasonably and foreseeably come in contact with, and more particularly, implant the Pinnacle Device into their patients;

i. Negligently advertising and recommending the use of the Pinnacle Device despite the fact Defendants knew or should have known of its dangerous propensities;

i. Negligently representing that the Pinnacle Device was safe for use for its intended purpose, when, in fact, it was unsafe;

j. Negligently representing that the Pinnacle Device offered low wear and high stability, when, in fact, the opposite was true;

k. those individuals who had it implanted;

1. Negligently producing the Pinnacle Device in a manner that was dangerous to those individuals who had it implanted;

m. Negligently assembling the Pinnacle Device in a manner, that was dangerous to those individuals who had it implanted;

n. Negligently under-reporting, underestimating and downplaying the serious dangers of the Pinnacle Device.

20. Defendants were further negligent in the designing, researching, supplying, manufacturing, promoting, packaging, distributing, testing, advertising, warning, marketing and sale of the Pinnacle Device in that they:

a. Failed to use due care in designing and manufacturing the Pinnacle Device so as to avoid the risks to individuals that had the devices surgically implanted;

b. Failed to accompany their product with proper warnings;

c. Failed to accompany their product with proper instructions for use;

d. Failed to conduct adequate testing, including pre-clinical and clinical testing and post-marketing surveillance to determine the safety of the Pinnacle Device;

21. Even though Defendants knew or should have known that the Pinnacle Device caused harm to individuals that had the device surgically implanted, Defendants continued to market, manufacture, distribute and sell the Pinnacle Device.

22. Defendants knew or should have known that consumers, such as Plaintiff, would suffer foreseeable injury and be at increased risk of suffering an injury as a result of Defendants' failure to exercise ordinary care, as set forth above.

23. Defendants' negligence was the proximate cause of Plaintiffs physical, mental and emotional injuries and harm, and economic loss, which he suffered.

24. By reason of the foregoing, Plaintiff experienced and will experience severe harmful effects including but not limited to partial or complete loss of mobility, loss of range of

motion, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life. Plaintiff needed a revision surgery and may also need another revision surgery to replace the devices, which carries the attendant risks of complications and death from such further surgery.

25. In performing the foregoing acts and omissions, Defendants acted grossly negligent, fraudulently and with malice so as to justify an award of punitive and/or exemplary damages.

COUNT II STRICT LIABILITY—FAILURE TO WARN

26. Defendants designed, manufactured, tested, marketed and distributed into the stream of commerce the Pinnacle Devices.

27. The Pinnacle Devices placed into the stream of commerce by Defendants were defective due to inadequate warnings, because Defendants knew or should have known that the Pinnacle Devices could fail early in patients and therefore cause physical injury, pain and suffering, debilitation and the need for a revision surgery to replace the device, with the attendant risks of complications and death from such further surgery, but Defendants failed to give consumers and physicians adequate warning of such risks. Further, the Pinnacle Devices placed into the stream of commerce by Defendants were surgically implanted in a manner reasonably anticipated by Defendants.

28. As a direct and proximate result of Defendants' placement of the defective Pinnacle Devices into the stream of commerce, Plaintiff experienced and will experience severe harmful effects including but not limited to partial or complete loss of mobility, loss of range of motion, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life.

29. In performing the foregoing acts and omissions, Defendants acted with gross negligence, fraudulently, and with malice so us to justify an award of punitive and/or exemplary damages.

COUNT III STRICT LIABILITY-MANUFACTURING DEFECT

30. Defendants designed, manufactured, tested, marketed and distributed into the stream of commerce the Pinnacle Devices.

31. At all times herein mentioned, the Pinnacle Device designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was in an unsafe, defective and unreasonably dangerous condition at the time it left Defendants' possession.

32. At all times herein mentioned, the Pinnacle Device was expected to and did reach the usual consumers, handlers, and persons coming into contact with said product without substantial change in the condition in which it was designed, produced, manufactured, sold, distributed, and marketed by Defendants.

33. The Pinnacle Device that was surgically implanted in Plaintiff was defective in its manufacture when it left the hands of Defendants in that it deviated from product specifications, posing a serious risk that it could fail early in patients thereby giving rise to physical injury, pain and suffering, debilitation and the need for a revision surgery to replace the device with the attendant risks of complications and death from such further surgery.

34. As a direct and proximate result of Defendants' placement of the defective and unreasonably dangerous Pinnacle Devices into the stream or commerce, the Plaintiff suffered substantial damages.

COUNT IV STRICT LIABILITY-DESIGN DEFECT

35. At all times herein mentioned, Defendants designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed the Pinnacle Device that was surgically implanted in Plaintiff.

36. At all times herein mentioned, the Pinnacle Device designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was in an unsafe, defective, and unreasonably dangerous condition, which was dangerous to users such as Plaintiff who had the devices surgically implanted.

37. At all times herein mentioned, the Pinnacle Device designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed by Defendants was in an unsafe, defective and unreasonably dangerous condition at the time it left Defendants' possession.

38. At all times herein mentioned, the Pinnacle Device was expected to and did reach the usual consumers, handlers, and persons coming into contact with said product without substantial change in the condition in which it was designed, produced, manufactured, sold, distributed, and marketed by Defendants.

39. At all times herein mentioned, the Pinnacle Device's unsafe, defective, and unreasonably dangerous condition was a proximate, producing or other legal cause of injury to Plaintiff

40. At all times herein mentioned, the Pinnacle Device failed to perform as safely as an ordinary consumer would expect when used in an intended or reasonably foreseeable manner.

41. Plaintiffs injuries resulted from use of the Pinnacle Device that was both intended and reasonably foreseeable by Defendants.

42. At all times herein mentioned, the Pinnacle Device posed a risk of danger inherent in its design which outweighed the benefits of that design.

43. At all times herein mentioned, the Pinnacle Device was defective and unsafe, and Defendants knew or had reason to know that it was defective and unsafe, especially when used in the form and manner as provided by Defendants.

44. Defendants knew, or should have known, that the Pinnacle Device was in a defective condition, and was and is unreasonably dangerous and unsafe.

45. At the time of the implantation of the Pinnacle Device into the Plaintiff, the product was being used for the purposes and in a manner normally intended, namely for use as a hip replacement device.

46. Defendants, with this knowledge, voluntarily designed its Pinnacle Device in a dangerous condition for use by the public and, in particular, the Plaintiff.

47. Defendants had a duty to create a product that was not unreasonably dangerous for its normal, intended use.

48. Defendants designed, researched, manufactured, tested, advertised, promoted, marketed, sold and distributed a defective product which, when used in its intended or reasonably foreseeable manner, created an unreasonable risk to the health of consumers and to Plaintiff, in particular, and Defendants are therefore strictly liable for the injuries sustained by Plaintiff.

49. At all times herein mentioned, there was a safer alternative design that was both technologically and economically feasible which would have eliminated or substantially reduced the damage to the Plaintiff.

50. As a direct and proximate result of Defendants' placement of the defective Pinnacle Devices into the stream of commerce, Plaintiff experienced and will experience

severe harmful effects including but not limited to partial or complete loss of mobility, loss of range of motion, as well as other severe and personal injuries which are permanent and lasting in nature, physical pain and mental anguish, including diminished enjoyment of life. Plaintiff needed a revision surgery and may also need another revision surgery to replace the devices, which carries the attendant risks of complications and death from such further surgery.

51. In performing the foregoing acts and omissions, Defendants acted with gross negligence, fraudulently, and with malice so as to justify an award of punitive and exemplary damages.

COUNT V NEGLIGENT MISREPRESENTATION

52. Defendants made misrepresentations and omissions of material facts, including, but not limited to:

a) That Plaintiff's implant was fit for its intended use;

b) That Plaintiff's implant was of merchantable quality;

c) That Plaintiff's implant was safe and efficacious in the treatment of Plaintiff's medical condition;

d) That Plaintiff's implant would function as intended when necessary;

e) That Plaintiff's implant was not defective, such that it would fail to function as intended; and

f) That Plaintiff's implant was not unreasonably dangerous.

53. These representations and omissions were false and misleading at the time they were made.

54. Defendants negligently and carelessly made the foregoing misrepresentations without a basis.

55. Defendants were aware that they did not possess information on which to accurately base the foregoing representations and concealed from Plaintiff that there was no reasonable basis for making these representations.

56. When Defendants made these representations, they knew or should have known them to be false.

57. In reliance upon the misrepresentations by the Defendants, Plaintiff was induced to and did subject himself to the use of the Pinnacle Device. If Plaintiff had known of the true facts, he would not have taken such action and risk. Plaintiffs reliance on Defendants' misrepresentations and omissions was reasonable because said representations were made by individuals and entities in a position to know the true facts.

58. As a result of the foregoing negligent misrepresentations by Defendants, Plaintiff suffered injury, expense and economic loss as previously described.

COUNT VI BREACH OF EXPRESS WARRANTY

59. Defendants designed, manufactured, tested, marketed and distributed into the stream of commerce the Pinnacle Devices.

60. Defendants expressly warranted that the Pinnacle Devices were safe and effective hip replacement systems.

61. The Pinnacle Devices placed into the stream of commerce by Defendants did not conform to these express representations because they failed early, as did Plaintiffs, thereby giving rise to unnecessary physical injury, pain and suffering, debilitation, and the possible need for a revision surgery to replace the device with the attendant risks of complications and death from such further surgery.

62. As a direct and proximate result of Defendants' breach of express warranties regarding the safety and effectiveness of the Pinnacle Devices, Plaintiff suffered substantial damages.

JURY DEMAND

Plaintiff, Warren Blanchard, hereby demands a trial by jury as to all claims in this action.

WHEREFORE, the Plaintiff respectfully requests that this Honorable Court and the jury grant him judgment in an amount to be determined by the trier of fact as just, and other relief as the Court deems just and equitable; and in an amount in excess of $75,000.00.

DATED at Rutland, Vermont, this 5h day of December, 2016.

WARREN BLANCHARD Jr.

By: _____

Matthew G. Hart, Esq.
1085 US-4 Suite 1-B
Rutland VT 05701
Matthew.hart@mhartlaw.com

JS 44 (Rev. 11/15)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Warren Blanchard Jr.

(b) County of Residence of First Listed Plaintiff Windsor
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*
Matthew Hart Esq. 1085 US-4 Suite 1-B Rutalnd VT 05701

DEFENDANTS

DePuy Orthopaeducs Inc. and Johnson & Johnson Service, Inc.

County of Residence of First Listed Defendant Kosciusko
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☐ 2 U.S. Government Defendant
- ☒ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☒ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☒ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☒ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 840 Trademark

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☐ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 U.S.C. 1332(a) Diversity

Brief description of cause:
Metal on Metal Defective Hip

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND $

CHECK YES only if demanded in complaint:
JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions): JUDGE _____ DOCKET NUMBER _____

DATE 12/05/2016

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT # 472 AMOUNT 400.00 APPLYING IFP _____ JUDGE 1011 MAG. JUDGE _____

SMS. Issued 2:16-cv-318-wks