

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY



MARTIN LUTHER KING JR. FEDERAL BLDG. & U.S. COURTHOUSE
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WILLIAM J. MARTINI
JUDGE

August 22, 2013

VIA REGULAR MAIL

Jeffery N. Lüthi
Clerk of the Panel
Judicial Panel on Multidistrict Litigation
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Room G-255, North Lobby
Washington, DC 20544-0005

RE: *In re Human Tissue Products Liability Litig.*,
MDL-1763

Dear Mr. Lüthi:

Pursuant to Judicial Panel on Multidistrict Litigation Rule 10.1(b), this Court respectfully suggests that the following case be remanded to its transferor court, the United States District Court for the Western District of New York:

Kennedy-Mcinnis, et al. v. Biomedical Tissue Services Ltd., No. 06-05140 (W.D.N.Y.)

This multidistrict litigation (“MDL”) arises out of allegations that Defendants engaged in a scheme to harvest and sell tissue from human corpses without proper consent. Cases in the MDL fell into two categories: (1) “recipient cases,” which were brought by people who had received tissue implants believed to have been derived from illegally harvested remains; and (2) “family cases” (or “donor cases”), which were brought by the families of the deceased individuals from which tissue was extracted. On June 21, 2006, the Panel issued an order transferring these cases to this Court “for coordinated or consolidated pretrial proceedings.” *In re Human Tissue Products Liab. Litig.*, 435 F. Supp. 2d 1352, 1354 (J.P.M.L. 2006). A total of four hundred and twenty

one (421) cases, filed in federal and state courts, were consolidated as part of the MDL. This included three hundred and sixty four (364) recipient cases, and fifty seven (57) family cases.

With respect to the recipient cases, this Court successfully mediated a global settlement agreement resolving three hundred and sixty three (363) state and federal cases. On April 6, 2011, this Court entered a Final Judgment dismissing with prejudice all claims covered by the settlement agreement. The only remaining recipient case was remanded to the District of Alaska.

With respect to the family cases, there were eleven (11) federal family cases pending in this Court, and forty six (46) state family cases pending in the New York Supreme Court. The state court cases are currently on appeal. *See In re Human Tissue Litig.*, No. 750000/08, 2012 WL 4335187, 2012 N.Y. Slip Op. 22271 (N.Y. Sup. Ct. Aug. 16, 2012). In the last year, this Court received stipulations from the parties settling ten (10) of the federal cases. As such, there is only one remaining MDL case still pending before this Court.

The Court believes that remand of the remaining federal case is appropriate at this time. The Court has completed consolidated pretrial proceedings. Thus, there is nothing left for this Court to adjudicate. Further, the plaintiffs have requested that the case be remanded. For the reasons stated above, the Court respectfully suggests that *Kennedy-Mcinnis, et al. v. Biomedical Tissue Services Ltd.*, No. 06-05140 (W.D.N.Y.) be remanded to its transferor court.

/s/ William J. Martini
WILLIAM J. MARTINI, U.S.D.J.

cc: Van Henri White (*Attorney for Cyndia Kennedy-McInnis, et al.*)
Nancy Ledy-Gurren (*Attorney for Regeneration Technologies, Inc.*)