

March 6, 2013

**Via Federal Express**

Honorable Glenn A. Grant, J.A.D.  
Acting Administrative Director of the New Jersey Courts  
Administrative Office of the Courts  
Hughes Justice Complex  
25 West Market Street  
Trenton, NJ 08625

**Re: Application Pursuant to R. 4:38A (“Centralized Management of Multicounty Litigation”) Joint Request for Reconsideration of Designation of Mirena® litigation as a Multicounty Litigation for Centralized Management**

Dear Judge Grant:

This letter brief is respectfully submitted as a request for reconsideration of this Court’s Order of January 2, 2013, in which defendants’ application for Centralized Management of Multicounty Litigation designation for cases filed involving injuries’ alleged to be related to usage of Mirena® was denied. A copy of your Honor’s January 2, 2013 Notice to the Bar denying the application is attached hereto as **Exhibit A**. In short, based upon new information being provided to the Court with this filing, Centralized Management of all Mirena® cases pending in the Superior Courts of New Jersey is warranted on the basis that there are now more than 60 cases filed concerning this product. A listing of cases known to have been filed is attached hereto as **Exhibit B**.

It should be noted that the undersigned has conferred with Counsel for defendants and has been advised that they will also be submitting a response in support of this request for reconsideration. Defendants have advised that they will again request that Middlesex County vicinage be the location for centralization. However, while the undersigned does not object to such an assignment, the other two vicinages handling Multicounty Litigation matters should equally be considered.

**INTRODUCTION**

Mirena® is defendant Bayer Healthcare Pharmaceuticals’ brand name for a type of intrauterine system, more commonly known as an IUD. Mirena® is a t-shaped intrauterine contraceptive device made of flexible plastic that is inserted by a healthcare provider during an office visit. It releases levonorgestrel, a synthetic progestogen, directly into the uterus for purposes of birth control. The product is manufactured, designed and marketed by the Bayer family including Bayer Healthcare Pharmaceuticals, which is a New Jersey corporation.

To date, our firm alone has filed more than 50 cases in Morris County on behalf of plaintiffs alleging that they suffered significant injuries as a result of their use of Mirena®. We also anticipate filing numerous additional actions in the coming weeks, and continuing thereafter. Likewise, we also

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expect new case filings to continue by other firms who also represent plaintiffs alleging similar injuries. According to data released by defendant, as of 2010 at least 2 million women in the United States were *currently* using Mirena<sup>®</sup>. This vast number of women who stand to be, or have already been, affected by this defective product suggests a greater number of cases remain to be filed.

The opportunity to designate these cases for Centralized Management comes at the early stages of this litigation, where coordinated discovery and pre-trial proceedings will inure to the benefit of all parties to the countless additional actions to be filed in New Jersey.

**CENTRALIZATION OF ALL MIRENA<sup>®</sup> CASES AND  
DESIGNATION AS A MULTICOUNTY LITIGATION IS WARRANTED**

Pursuant to R. 4:38A and for the following ancillary reasons, it is respectfully submitted that the Mirena<sup>®</sup> litigation warrants designation as a Multicounty Litigation for Centralized Management.

- I. The Mirena<sup>®</sup> litigation involves a large number of parties that are geographically dispersed around the state and the country.

As with other Multicounty Litigations centralized by this Court, the Mirena<sup>®</sup> litigation involves, and will involve, a large number of parties that are geographically dispersed, as the product was, and currently is, sold throughout the United States. The current actions filed by our office alone in New Jersey involve plaintiffs representing at least 23 states across the United States including, Arkansas, Arizona, California, Colorado, Florida, Illinois, Indiana, Louisiana, Massachusetts, Maryland, Minnesota, Missouri, Mississippi, New Jersey, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, Utah, Washington and Wisconsin.

- II. Mirena<sup>®</sup> litigation involves many claims with common, recurrent issues of law and fact that are associated with a single product alleged to cause similar injuries among various plaintiffs.

The Mirena<sup>®</sup> cases involve, and will involve, numerous claims with common, recurrent, and complex issues of law and fact. All of these cases involve the same product manufactured by the same defendant. The liability and causation aspects of these cases are associated with a single product. The defendant, Bayer Healthcare Pharmaceuticals, Inc. is the entity responsible for the Mirena<sup>®</sup>'s design, development, research, testing, manufacture, packaging, promotion, marketing distribution and/or sale.

Further, all of the actions proposed for designation allege substantially similar, and in some cases identical, violations of law by essentially the same defendant and are based upon the same or substantially similar underlying facts surrounding the safety profile of Mirena<sup>®</sup>. Moreover, there is a high degree of commonality among the injuries alleged by plaintiffs in those cases filed and, presumptively, those to be filed.

Centralized management will conserve judicial resources and provide all parties with the benefits of coordinated discovery, and will not unreasonably delay the progress of this litigation. Centralization will provide a fair and more convenient, cost effective process for all parties, witnesses, counsel and the Court.

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This litigation requires specialized expertise in case processing as will provided by a single, dedicated Multicounty Litigation judge and staff. Centralization will allow legal issues to be handled more efficiently and will permit a single Multicounty Litigation judge to develop necessary expertise concerning the liability and causation issues, which will arise in each of these cases.

III. Anticipation of Future Mirena Filings in the New Jersey Courts

We anticipate that numerous additional and similar lawsuits regarding Mirena<sup>®</sup> will be filed throughout the Courts of New Jersey. Coordination before a single New Jersey judge will facilitate an organized, efficient and universally fair approach to the progress of this litigation.

**DESIGNATION OF THE APPROPRIATE MASS TORT VENUE**

While the parties here jointly seek reconsideration of the Court's January 2, 2013 Order, and collectively desire Centralization of this litigation, the undersigned does not take a position as to which vicinage the matter should be assigned. However, counsel for defendant has advised the undersigned that, in accordance with their initial application of August 9, 2012, they wish to continue their request that Centralization of the Mirena<sup>®</sup> cases be assigned to Middlesex County. A copy of Defendant's Application for Centralized Management of Certain Cases Involving Mirena, date stamped August 9, 2012, is attached hereto as **Exhibit C**.

**CONCLUSION**

For all of the above and foregoing reasons, we respectfully request that the Mirena<sup>®</sup> cases be designated as Multicounty Litigation for Centralized Management pursuant to R. 4:38A.

Thank you for your consideration of this matter.

Respectfully submitted,

Parker & Waichman LLP



Matthew J. McCauley

Jessica E. Vertullo

Honorable Glenn A Grant, J.A.D.

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cc:

Coughlin Duffy LLP

P.O. Box 1917

350 Mount Kemble Avenue

Morristown, New Jersey 07962-1917

Johnson Becker PLLC

33 South 6<sup>th</sup> Street

Suite 4530

Minneapolis, Minnesota 55402

Motley Rice LLC

28 Bridgeside Boulevard

Mt. Pleasant, South Carolina 29464

Myers & Flowers LLC

3 North Second Street

Suite 300

St. Charles, Illinois 60174

Heninger Garrison Davis, LLC

220 St. Paul Street

Westfield, NJ 07090

The Lanier Law Firm

Tower 56, 126 East 56th Street, 6th Floor

New York, New York 10022

The Levensten Law Firm

1420 Walnut Street

Suite 1500

Philadelphia, PA 19102

# EXHIBIT A

# NOTICE TO THE BAR

## **MULTICOUNTY LITIGATION -- DENIAL OF APPLICATION FOR MCL DESIGNATION OF MIRENA CONTRACEPTIVE DEVICE LITIGATION**

A previous Notice to the Bar sought comments on an application for the designation of all New Jersey state-court litigation involving the Mirena contraceptive device as Multicounty Litigation ("MCL"). That application was submitted pursuant to Rule 4:38A and the Revised Multicounty Litigation Guidelines as promulgated by Directive #8-12. This notice is to advise that the Supreme Court, after considering the application and any and all comments received, has determined not to grant the application. Accordingly, all Mirena Contraceptive Device cases should continue to be filed in the appropriate counties of venue.

This notice will be posted on the Judiciary's Internet website ([njcourts.com](http://njcourts.com)) in the Multicounty Litigation Information Center (<http://www.judiciary.state.nj.us/multicounty/index.htm>).

Questions concerning this matter may be directed to Leslie Santora, Esq., Chief, Civil Court Programs, Administrative Office of the Courts, Hughes Justice Complex, P.O. Box 981, Trenton, New Jersey 08625-0981; telephone (609) 292-8471; email address [leslie.santora@judiciary.state.nj.us](mailto:leslie.santora@judiciary.state.nj.us).

/s/ Glenn A. Grant

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Glenn A. Grant, J.A.D.  
Acting Administrative Director of the Courts

Dated: January 2, 2013

## **EXHIBIT B**

**PENDING MIRENA LAWSUITS IN NEW JERSEY THAT REQUIRE COORDINATION**

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Attorneys</b>
Jennifer Schroeder v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 3163-12	Robert J. Brennan	Parker Waichman LLP; Meyers & Flowers, LLC
Elizabeth Toups v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 3162-12	Rosemary E. Ramsay	Parker Waichman LLP; Meyers & Flowers, LLC
Alyson Lee Lunt Romney and Adam Romney v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 3153-12	Robert J. Brennan	Parker Waichman LLP
Astin Webster and Donald Hurst v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 3150-12	Rosemary E. Ramsay	Parker Waichman LLP; Meyers & Flowers, LLC
Shanell Amos and Terrance Amos v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 3149-12	Robert J. Brennan	Parker Waichman LLP; Meyers & Flowers, LLC
Robin Melvin v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2997-12	Robert J. Brennan	Parker Waichman LLP; Meyers & Flowers, LLC
Carly Nicole Valenciano and Aaron R. Valenciano v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2929-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Kayla Holland v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2928-12	Stephan C. Hansbury	Parker Waichman LLP
Megan Ann Perzia v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2927-21	Stephan C. Hansbury	Parker Waichman LLP
Casey Ann Henderson v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2809-12	David B. Rand	Parker Waichman LLP
Dana M. Mascaro v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2724-12	Stephan C. Hansbury	Parker Waichman LLP
Betsy Landers v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2723-12	Stephan C. Hansbury	Parker Waichman LLP
Sarah Marie Kelly v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2721-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Montana Powell v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 2720-12	Stephan C. Hansbury	Parker Waichman LLP
Shazta Rae Bassett And William Kmiec v. Bayer HealthCare Pharmaceuticals,	MRS L - 1964-12	Robert J. Brennan	Parker Waichman LLP; Motley Rice

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Attorneys</b>
Inc.			
Erin Marin Tierney And Mark Tierney v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1963-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Princess E. Mashala v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1910-12	Robert J. Brennan	Parker Waichman LLP
Jayme L. Bucher and Brandon Bucher v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1830-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Jessica Marie Thomas and Rowdy Thomas v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1829-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Jennifer Renee Simon and Ryan Dale Simon v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1827-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Sharee Mark Chu Schwantz and Charles Macon Thomas Schwantz v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1826-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Patricia Reid and Samuel B. Reid v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1823-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Angela Gayle Oakley and B. Keith Oakley v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1822-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Ashleigh Nicole Hall and Craig L. Hall v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1818-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Suzi Gluck v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1817-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Kimberly D. Elliott v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1816-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Michele Lee Fowler and David F. Fowler v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1815-12	Stephan C. Hansbury	Parker Waichman LLP; Motley Rice
Samantha Ann Barnett v. Bayer HealthCare	MRS L - 1665-12	Robert J. Brennan	Parker Waichman LLP; Motley Rice

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Attorneys</b>
Pharmaceuticals, Inc.			
Carrie Elizabeth Madden v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1263-12	Robert J. Brennan	Parker Waichman LLP
Joy Viola Holt v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1262-12	Robert J. Brennan	Parker Waichman LLP; Motley Rice
Samantha Lynn Demastus v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 1108-12	David B. Rand	Parker Waichman LLP; Motley Rice
Ernestine Ayissi v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0924-12	Stephan C. Hansbury	Parker Waichman LLP
Stephanie Perdue and Aaron Perdue v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0579-13	Thomas V. Manahan	Climace Wilcox Peca Tarantino & Garofoli Co. LPA
Amanda Cheree Loyd v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0561-13	Robert J. Brennan	Parker Waichman LLP
Cassie Marie Beyer v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0560-13	Robert J. Brennan	Parker Waichman LLP
Bryttany Wright v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0553-13	Robert J. Brennan	Parker Waichman LLP
Cassandra Marie Bennett v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0552-13	Robert J. Brennan	Parker Waichman LLP
Esmeralda Medel Marquez v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0551-13	Robert J. Brennan	Parker Waichman LLP
Amy E. Smith And Hunter Smith v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0550-13	Robert J. Brennan	Parker Waichman LLP; Meyers & Flowers, LLC
Tanesha D. Robinson And Demari Robinson v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0549-13	Rosemary E. Ramsay	Parker Waichman LLP
Nell Saab v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0548-13	Rosemary E. Ramsay	Parker Waichman LLP
Rochrata Bradley v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0491-13	Robert J. Brennan	Parker Waichman LLP; Johnson Becker PLLC
Carol Kirkland v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0488-13	Stephan C. Hansbury	Parker Waichman LLP; Johnson Becker PLLC
Adrienne Barnes v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0487-13	Stephan C. Hansbury	Parker Waichman LLP; Johnson Becker PLLC

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Attorneys</b>
Autumn Harris v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0486-13	Stephan C. Hansbury	Parker Waichman LLP; Johnson Becker PLLC
Jessica R. Coffey Jones v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0469-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Rebecca Eagle v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0468-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Megan Marie Block v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0445-13	Rosemary E. Ramsay	Parker Waichman LLP
Heather Lee Beseler and Michael Beseler v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0434-13	Rosemary E. Ramsay	Parker Waichman LLP
Heather Hansen and Jeff Hansen v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0433-13	Rosemary E. Ramsay	Parker Waichman LLP
Britney Nicole Brewington v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0432-13	Stephan C. Hansbury	Parker Waichman LLP
Ariane Duberry v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0373-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Yolanda Parker v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0372-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Carrie Smith and Jason L. Smith v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0371-13	Thomas V. Manahan	Parker Waichman LLP
Brittany Williams McClain and Michael McClain v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0312-13	Robert J. Brennan	Parker Waichman LLP
Mashell Ferris v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0274-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Ambrocia Castaneda v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0273-13		Parker Waichman LLP; Meyers & Flowers, LLC
Marquisha Elmore and Dupree Elmore v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0272-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Carmen Salinas v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0271-13	Thomas V. Manahan	Parker Waichman LLP; Meyers & Flowers, LLC
Alejandrina Ortiz and Rafael Ortiz v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0236-13	Rosemary E. Ramsay	Parker Waichman LLP; Meyers & Flowers, LLC

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Attorneys</b>
Tyra Beaver and Kevin Beaver v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0222-13	Stephan C. Hansbury	Parker Waichman LLP
Briana Morian and Free Morian v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0119-13	Stephan C. Hansbury	Parker Waichman LLP; Meyers & Flowers, LLC
Kristine Rene Brumfield Orman v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0062-13	Robert J. Brennan	Parker Waichman LLP
Amanda Kay Ross and Dennis William Ross v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0060-13	Robert J. Brennan	Parker Waichman LLP
Jada Rae Bell and Ryan Bell v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0041-13	Rosemary E. Ramsay	Parker Waichman LLP
Carmen Olivia Lopez v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0040-13	Rosemary E. Ramsay	Parker Waichman LLP
Melissa Ann Jaramillo v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0038-13	Rosemary E. Ramsay	Parker Waichman LLP
Yarnell Linette Bates v. Bayer HealthCare Pharmaceuticals, Inc.	MRS L - 0037-13	Rosemary E. Ramsay	Parker Waichman LLP

# EXHIBIT C

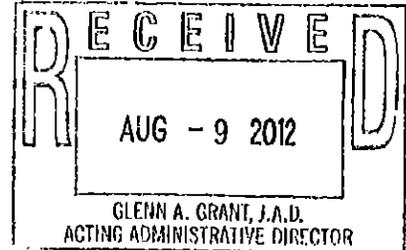
# COUGHLIN DUFFY LLP

ATTORNEYS AT LAW

350 Mount Kemble Avenue, P.O. Box 1917  
Morristown, New Jersey 07962  
phone: 973-267-0058  
fax: 973-267-6442  
www.coughlinduffy.com

Wall Street Plaza  
88 Pine Street, 28th Floor  
New York, New York 10005  
phone: 212-483-0105

LORNA A. DOTRO  
DIRECT DIAL: (973) 631-6016  
EMAIL: LDOTRO@COUGHLINDUFFY.COM



August 9, 2012

## VIA HAND DELIVERY

Honorable Glenn A. Grant, J.A.D.  
Acting Administrative Director of the New Jersey Courts  
Administrative Office of the Courts  
Hughes Justice Complex  
25 West Market Street  
Trenton, New Jersey 08625

Civil Practice Division

AUG 09 2012

**RECEIVED**

Re: *Application for Centralized Management of Certain Cases  
involving Mirena®*

Dear Judge Grant:

This firm represents Bayer HealthCare Pharmaceuticals, Inc., and a number of additional Bayer related entities in several matters recently filed in Morris County Superior Court alleging injuries as a result of use of the Defendants' contraceptive device, commonly known as Mirena®. To date, sixteen cases have been filed in Morris County containing similar allegations of damages following use of this product. A complete list of all matters currently pending is annexed hereto as Exhibit A. In the interests of judicial economy, as well as to facilitate expeditious handling of these matters, Defendants submit this application respectfully requesting Centralized Management of these matters.

Defendants are requesting Centralized Management in order to help conserve judicial resources, avoid the risks of duplicative discovery and avoid the risks of inconsistent rulings.

Each of these matters has been filed in Morris County Superior Court, presumably because Morris County is where the offices of Bayer HealthCare are located. Each of the plaintiffs resides out of State, and the plaintiffs' firms filing these matters reside out of

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State. Because Morris County does not have a Mass Tort Court, Defendants respectfully request Centralized Management of these matters in Middlesex County, the closest and most convenient Mass Tort venue to their original location.

BACKGROUND

Mirena® (levonorgestrel-releasing intrauterine system) is a hormone-releasing intrauterine system, or IUS. It is a small T-shaped device made of soft flexible plastic. Mirena® is inserted into a woman's uterus by a trained healthcare provider and is used to prevent pregnancy for up to 5 years. Mirena® is also used to treat heavy menstrual bleeding in women who choose intrauterine contraception.

Mirena® was first introduced in the United States in 2000 and is currently used by over two million women in the United States.<sup>1</sup>

In each of the matters currently pending in Morris County, the female plaintiffs allege to have had a Mirena® device inserted and allege injuries and/or damages as a result of misplacement of the device.

There are currently sixteen Mirena® cases pending here in Morris County New Jersey as detailed on Exhibit A. In addition, there are seven additional cases pending around the Country, in various States. A detailed listing of the cases pending nationwide is annexed hereto as Exhibit B.

ARGUMENT

Bayer submits that the Mirena® litigation meets the criteria required under Directive #7-09 for Centralized Case Management and respectfully requests that these cases be consolidated for case management in the Middlesex County Superior Court.

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<sup>1</sup> Based upon 2010 data.

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I. THE MIRENA® CASES SATISFY THE CRITERIA FOR CENTRALIZED CASE MANAGEMENT

A. Mirena® involves a large number of parties.

There are sixteen cases pending in Morris County totaling the claims of more than twenty-four plaintiffs. In addition, the plaintiffs' firms that have filed these actions have indicated their intentions to file additional cases. Moreover, advertisements are being run by several law firms nationwide regarding claims surrounding the Mirena® device. As such, Defendants submit that this litigation already involves a large number of parties in New Jersey and would benefit from Centralized Management.

B. Mirena® involves many claims with common, recurrent issues of law and fact, all associated with a single product.

Each of the matters listed on Exhibit A hereto, and encompassing all of the cases currently pending in New Jersey allege a set of facts regarding insertion and placement of the Mirena® device and alleged resultant injury and damages. While each of these matters involves a plaintiff specific set of facts, medical histories and conditions, each of the Complaints contains similar allegations and demands for damages against the Defendants.

In light of their similarities, the rulings in one matter will likely impact the findings in another case. Defendants submit that Centralized Case Management will streamline this litigation and benefit all parties.

C. Geographical dispersement and Remoteness of Counsel require Centralized Management.

Bayer HealthCare Pharmaceuticals, Inc. maintains offices in Morris County, New Jersey. However, Bayer's in-house counsel and General Counsel are in Pittsburgh, Pennsylvania.

The two Plaintiffs firms that have filed these actions are the Parker Waichman firm from Port Washington, New York and the Motley Rice firm from, Mount Pleasant, South Carolina. In addition, Bayer's National Counsel in this litigation is the firm of Shook, Hardy & Bacon ("SHB"). The SHB attorneys currently working on this matter reside in Texas and Missouri.

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Further, as outlined in the attached case listing at Exhibit A, all of the Plaintiffs reside outside of New Jersey, in States including, Ohio, Tennessee, Mississippi, Texas and Indiana. Bayer submits that this geographical diversity makes Centralized Management necessary for the efficient handling of this litigation.

*D. Centralized Management will promote fairness and provide convenience to all parties and their Counsel.*

Cases such as those in the Mirena® litigation involve a significant number of parties, court filings, court hearings and motion practice. As such, our Courts have found that the placement of these matters into one of the three Mass Tort venues in New Jersey allows for the prompt and effective management of these cases. While each of these matters are now consolidated in one County, Morris County is not a Mass Tort venue and as such, cannot provide the specialized expertise and case processing that is available from the Judges and Staff in Middlesex County.

Centralized Management in a Mass Tort venue, with an experienced Judge, will help ensure fairness to the parties, provide a streamlined approach to case management and avoid the possibility of duplicative motion practice and inconsistent discovery rulings between multiple Judges in Morris County.

*E. Related Matters Pending*

As is evidenced by the Chart annexed at Exhibit B, there are a number of other matters pending around the Country. At this time, Defendants do not expect the creation of an MDL in any one venue, and at this time, New Jersey has the most cases out of any other venues in the United States.

Defendants submit that Centralized Management before one of New Jersey's experienced Mass Tort Judges, together with their staff, will provide the most efficient and fair forum in which to litigate these matters.

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*II. MIDDLESEX COUNTY IS THE MOST APPROPRIATE VENUE FOR THE  
CENTRALIZED MANAGEMENT OF THESE CASES*

Middlesex County is the closer of the Mass Tort venues to the original Court of filing in Morris County. Middlesex County is certainly the most convenient for traveling counsel. The Courthouse in New Brunswick is less than 25 miles from Newark airport; it has many hotels in the blocks surrounding the Courthouse and therefore provides the best setting for the management of this litigation involving out of state counsel, parties, witnesses and experts who will be required to regularly travel in and stay overnight.

Further, based upon review of the current mass tort caseloads, Middlesex County appears to be the proper venue for this litigation. Middlesex County's active Mass Tort caseload is 1,409 cases, down 64% over the last year as compared with Bergen County which has seen a 50% increase, and Atlantic County which has seen an 82% increase. See *New Jersey Judiciary, CIVIL CASELOAD SUMMARY BY CASETYPE, July, 2011- June, 2012, Middlesex, Atlantic and Bergen Counties* <http://www.judiciary.state.nj.us/quant/gray1206.pdf>.

CONCLUSION

For all of the foregoing reasons, Bayer respectfully requests that each of the Mirena® matters identified in Exhibit A and any additional cases filed in New Jersey be consolidated for Centralized Management in Middlesex County.

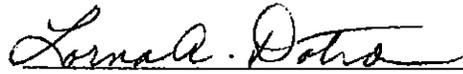
All parties are hereby notified that this application will be sent by the Administrative Director to all Assignment Judges and Civil Presiding Judges, will be published by the Administrative Director in the legal newspapers, and will be posted on the Judiciary's Internet website both in the Notices section and in the Mass Tort Information Center. Once the comment period has closed, the Administrative Director will present this application, along with a compilation of any comments and objections received to the Supreme Court for its review and determination.

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Respectfully Submitted,

COUGHLIN DUFFY LLP



Lorna A. Dotro

LAD/bmw  
Enclosures

cc: Honorable Stephan C. Hansbury, J.S.C., *via hand delivery*  
Honorable David B. Rand, P.J. Civ., *via hand delivery*  
Honorable Robert J. Brennan, J.S.C., *via hand delivery*  
Carmen Scott, Esq., *via electronic mail*  
Gary Falkowitz, Esq., *via electronic mail*

# EXHIBIT A

**PENDING MIRENA LAWSUITS IN NEW JERSEY  
THAT REQUIRE COORDINATION**

<b>Case Name</b>	<b>Docket No.</b>	<b>Judge</b>	<b>Plaintiff(s) Residence</b>	<b>Plaintiff(s) Counsel</b>
Ernestine Ayissi v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-924-12	Judge Stephan C. Hansbury	Ohio	Parker Waichman LLP; Port Washington, NY
Samantha Ann Barnett v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1665-12	Judge Robert J. Brennan	Tennessee	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Jayne L. Bucher and Brandon Bucher v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1830-12	Judge Stephan C. Hansbury	Pennsylvania	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Samantha Lynn Demastus v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1108-12	Judge David B. Rand	Ohio	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Kimberly D. Elliott v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1816-12	Judge Stephan C. Hansbury	Indiana	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC

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Michele Lee Fowler and David F. Fowler v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1815-12	Judge Stephan C. Hansbury	Mississippi	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Suzi Gluck v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1817-12	Judge Stephan C. Hansbury	Florida	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Ashleigh Nicole Hall and Craig L. Hall v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1818-12	Judge Stephan C. Hansbury	Ohio	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Joy Viola Holt v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1262-12	Judge Robert J. Brennan	Texas	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Carrie Elizabeth Madden v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1263-12	Judge Robert J. Brennan	Oklahoma	Parker Waichman LLP; Port Washington, NY

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Princess E. Mashala v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1910-12	Judge Robert J. Brennan	Indiana	Parker Waichman LLP; Port Washington, NY
Angela Gayle Oakley and B. Keith Oakley v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1822-12	Judge Stephan C. Hansbury	Tennessee	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Patricia Reid and Samuel B. Reid v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1823-12	Judge Stephan C. Hansbury	Tennessee	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Sharee Mark Chu Schwantz and Charles Macon Thomas Schwantz v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1826-12	Judge Stephan C. Hansbury	Arizona	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC
Jennifer Renee Simon and Ryan Dale Simon v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1827-12	Judge Stephan C. Hansbury	Texas	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC

Case Name	Docket No.	Judge	Plaintiff(s) Residence	Plaintiff(s) Counsel
Jessica Marie Thomas and Rowdy Thomas v. Bayer Corporation, Bayer Healthcare LLC, Bayer Pharmaceuticals Corporation, Bayer Healthcare Pharmaceuticals, Inc., Berlex Laboratories, Inc. and Berlex, Inc.	MRS-L-1829-12	Judge Stephan C. Hansbury	Illinois	Parker Waichman LLP; Port Washington, NY  Motley Rice, LLC; Mt. Pleasant, SC

# EXHIBIT B

**OTHER MIRENA LAWSUITS  
PENDING AROUND THE COUNTRY**

<b>Case Name</b>	<b>Court</b>	<b>Docket No.</b>
Kelli Baugh and Justin Baugh v. Bayer Corporation, et al.	USDC, District of South Carolina	4:11-cv-00525
Sanjuan B. Butler, et al. v. Louisiana University Health Science Center and Bayer Pharmaceuticals	1st Judicial District Court, Caddo Parish, Louisiana	557927-C
Stephanie Fairbrass v. Bayer Corporation, et al.	Clay County, Missouri	09CY-CV04109
Siria Gonzalez v. Bayer Healthcare Pharmaceuticals, Inc., Planned Parenthood of Houston and Southeast Texas	USDC, Southern District of Texas	4:12-cv-01412
Carrie Richards Osborne and Edward Jason Osborne v. Bayer Corporation, et al.	USDC, Middle District of Georgia	5:11-cv-00421
Megan Reed Wife of/and Kurtis Reed v. Bayer Healthcare Pharmaceuticals, Inc.	22nd Judicial District Court, Parish of St. Tammany, Louisiana	2011-11991
Celine Winans, Jon Winans, Heather Willis and Ryan Willis v. Bayer Healthcare Pharmaceuticals, Inc.	New York County, New York	100482/2011