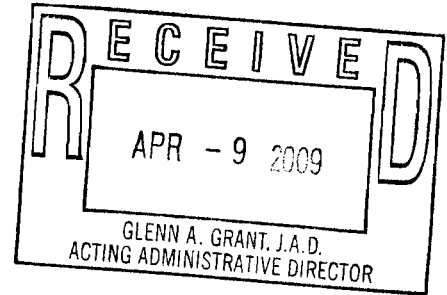


DOUGLAS & LONDON, P.C.
Attorneys At Law
111 John Street
Suite 1400
New York, NY 10038
(212) 566-7500
FAX: (212) 566-7501
www.DOUGLASANDLONDON.com

Gary J. Douglas
Michael A. London*

Virginia E. Anello[^]
Nicholas E. Warywoda
Randolph D. Janis
Rebecca G. Newman*
Kristin D. Padden[°]

* Also admitted in NJ
[^] Also admitted in LA
[°] Admitted in NJ only



April 8, 2009

VIA OVERNIGHT DELIVERY

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

CIVIL PRACTICE DIV.

APR 13 2009

RECEIVED

**Re: Application Pursuant to R. 4:38A ("Centralized Management of Mass Torts")
Requesting Designation of Levaquin litigation as a Mass Tort for Centralized
Management**

Dear Judge Grant:

Please accept this letter as a formal request for the Levaquin pharmaceutical products liability cases filed, and to be filed, in the Superior Courts of New Jersey, to be designated as a Mass Tort for centralized management before the Honorable Carol E. Higbee, in the Superior Court of New Jersey, Atlantic County.

INTRODUCTION:

Levaquin is defendants Ortho-McNeil Pharmaceutical, Inc., Johnson & Johnson, and Johnson & Johnson Pharmaceutical Research & Development, LLC's brand name for the antibiotic levofloxacin. It is a broad-spectrum fluoroquinolone antibiotic and is alleged to cause significant tendon related injuries, including but not limited to tendon ruptures, tears and tendonitis. The product is manufactured by Ortho McNeil, a subsidiary of Johnson & Johnson, which is a New Jersey corporation.

On July 8, 2008, the FDA issued a black box warning for fluoroquinolone drugs, including Levaquin due to the significant risk of tendon related injuries that had resulted following Levaquin use.¹

To date, our firm has filed five cases in Atlantic County on behalf of Plaintiffs Robert and Sonya Anderson, James Root, Frank and Annie Marie Hynes, Lisa Ericson and Christopher Salvatore and Sharyn Tagliareni. The very first Levaquin case that our firm filed was filed in Atlantic County, and we anticipate filing numerous additional actions in the coming weeks, and continuing thereafter. In addition, we have filed an action in Middlesex County also on behalf of an individual Plaintiff.

The opportunity to designate these cases as a Mass Tort 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.

MASS TORT DESIGNATION IS WARRANTED:

Pursuant to R. 4:38A, it is respectfully submitted that the Levaquin litigation warrants designation as a Mass Tort because it will involve a large number of plaintiffs that are geographically dispersed as the product was, and currently is, sold throughout the United States. The current actions on file from our office involve Plaintiffs from California, New Jersey, New York, Georgia and Virginia.² Finally, like other mass torts before it, the Levaquin cases will involve numerous (likely thousands) of claims with recurrent and complex issues of law and fact.

All of these cases involve the same pharmaceutical product from the same defendant(s). The defendants are Ortho-McNeil Pharmaceutical, Inc., Johnson & Johnson, and Johnson & Johnson Pharmaceutical Research & Development, LLC, all of which are New Jersey based companies and are the entities responsible for Levaquin's design, development, research, testing, manufacture, packing, promotion, marketing, distribution and/or sale. In addition, the liability and causation aspects of these cases are associated with a single product. Moreover, there is high degree of commonality of injury and/or damages among the various plaintiffs.³

Indeed, the Judicial Panel on Multidistrict Litigation has *already* centralized the federally filed Levaquin cases as part of MDL No. 1943 before the Honorable Judge R. Tunheim in the United States District Court for the District of Minnesota.

¹ This warning came only after a variety of consumer groups' and health watch dogs' repeated attempts to alert the FDA of the extreme risks associated with the use of Levaquin.

² We currently represent over 200 plaintiffs who are claiming Levaquin-related injuries and who are from 38 different states.

³ In particular, every plaintiff who is alleging damages from taking Levaquin has suffered a severe tendon-related injury.

It is in the interests of judicial economy and consistency to consolidate these cases so that they may be managed and litigated without the risk of duplicative and/or inconsistent rulings. Dispersing these cases across the country would surely mean duplicative efforts, including duplicative corporate depositions in each case as each moves forward on different tracks, whereas consolidation would mean that one judge can and will preside over all discovery and ultimately trials.

ATLANTIC COUNTY IS THE APPROPRIATE MASS TORT VENUE:

There are three important factors to consider when selecting the best venue in which to centralize a mass tort, which include: (1) fairness; (2) geographical location of the parties and attorneys; and (3) “the existing civil and mass tort caseload in the vicinage.” See Mass Torts— Revised Guidelines and Criteria for Designation, at 3 (October 25, 2007).

With respect to geographical location, the Atlantic County venue is within a reasonable driving distance from regional and international airports, including the airports in Atlantic City, Philadelphia and Newark, thereby making the location extremely accessible for the parties involved. The accessibility of the venue also supports the fairness of the chosen venue.⁴

Undoubtedly, the last factor, “the existing civil and mass tort caseloads in the vicinage” supports the Atlantic County venue. In particular, there are currently 7 mass tort caseloads in Middlesex County Superior Court, including Asbestos, Ciba-Geigy, Gadolinium, HRT, Ortho Evra, Risperdal/Seroquel/Zyprexa and Zometa/Aredia. The Bergen County venue has several new mass tort centralizations, including Depo-Provera, Mahwah Toxic Dump Site, Zelnorm and Nuva Ring.

By contrast, there are only 5 mass torts centralized in Atlantic County, and two of these have already settled. They include: Accutane, Fosamax, Bextra/Celebrex (settled), and Vioxx (settled) and Bristol-Myers Squibb Environmental). The Vioxx and Bextra/Celebrex litigation settlements will greatly clear the Atlantic County dockets, other than an ongoing stream of dismissal orders and other housekeeping matters that are and will be filed in these cases.

Finally, the Superior Court of New Jersey, Atlantic County, has notable and significant experience in handling complex mass tort litigation, which supports the appropriateness of this venue for mass tort consolidation under R. 4:38A. In addition, the Honorable Carol Higbee has extensive experience in both managing and trying product liability actions. Finally, the venue has a mass tort staff equipped to handle mass torts involving literally thousands of cases, and we anticipate that numerous additional and similar Levaquin cases will be filed throughout the Superior Courts of New Jersey.⁵ As such, mass tort status is warranted and we submit Atlantic County is the appropriate for same.

⁴ In addition, travel from New York City to Atlantic County takes less than three hours, and both buses and trains routinely travel between the two locations.

⁵ We are aware of two other mass tort firms that have filed cases in New Jersey, including the Lanier Law Firm and Parker, Waichman & Alonso. Further, we have spoken with other counsel in New Jersey, and nationally, who are intending to file Levaquin cases in New Jersey state court.

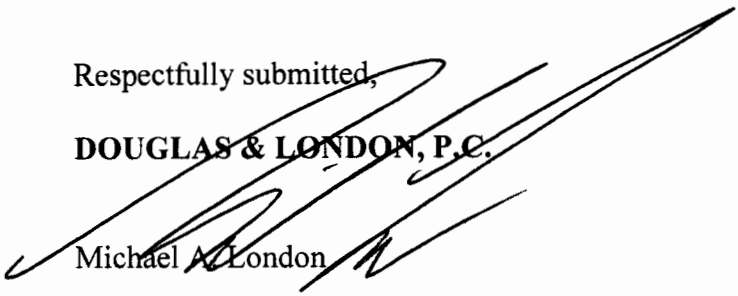
The Honorable Glenn A. Grant, J.A.D.
April 8, 2009
Page 4

For the above stated reasons, we respectfully request that the Levaquin cases be designated as a Mass Tort pursuant to R. 4:38A, and that Atlantic County be the designated Mass Tort venue.

Thank you for your consideration of this matter.

Respectfully submitted,

DOUGLAS & LONDON, P.C.



Michael A. London

cc: Michelle V. Perone, Esq., Chief Civil Court Programs (via overnight delivery)
The Honorable Carol Higbee (via overnight delivery)
Susan Sharko, Esq. (Counsel for Defendants)(via overnight delivery)
Andres Alonso, Esq. and David Krangle, Esq. (Counsel for Plaintiff in Hardy v. Johnson & Johnson et al.)(via e-mail)
Richard D. Meadow, Esq. (Counsel for Plaintiff in Ericson v. Johnson & Johnson et al)(via e-mail)