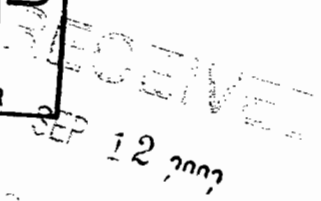
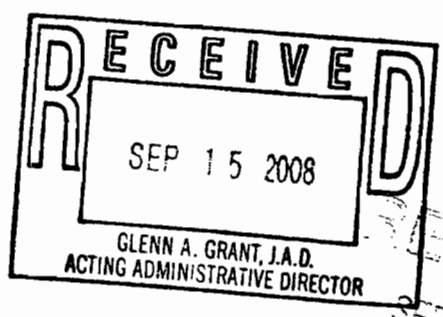


MVF



September 11, 2008

VIA FEDERAL EXPRESS

Honorable Philip S. Carchman, P.J.A.D.
Acting Administrative Director of the Courts
25 W. Market Street
P.O. Box 037
Trenton, New Jersey 08625-0037

CIVIL PRACTICE DIV.

SEP 18 2008

RECEIVED

**Re: Objection to Application for Mass Tort Designation
Cases Identified on the Attached Schedule A**

Dear Judge Carchman:

This firm represents defendant Bristol-Myers Squibb Company ("BMS") in the one hundred six (106) matters referenced on the attached Schedule A. These matters are the subject of an Application for Mass Tort Designation (the "Application") submitted by Garrity, Graham, Murphy, Garofalo & Flinn by cover dated July 30, 2008. BMS submits that mass tort designation as described in *Rule 4:38A* and Administrative Directive #10-07 is not warranted for these cases. Accordingly, please accept this letter as BMS' formal objection to the application for mass tort designation and centralized management of litigation involving alleged environmental contamination arising from a New Brunswick research and development facility operated by Bristol-Myers Squibb published in a Notice to the Bar on August 4, 2008.

Rule 4:38A provides in pertinent part that, "[t]he Supreme Court may designate a case or category of cases as a mass tort to receive centralized management in accordance with criteria and procedures promulgated by the Administrative Director of the Courts." Pursuant to Directive #10-07 issued by the Acting Administrative Director of the Courts on October 7, 2007, the following criteria, among others, are to be applied in determining whether designation as a mass tort is warranted:

- (1) whether the cases possess the following characteristics:
 - (a) it involves a large number of parties;

- (b) it involves many claims with common, recurrent issues of law and fact that are associated with a single product, mass disaster, or complex environmental or toxic tort;
 - (c) there is geographical dispersement of parties;
 - (d) there is a high degree of commonality of injury or damages among other plaintiffs;
 - (e) there is a value interdependence between different claims, that is, the perceived strength or weakness of the causation and liability aspects of the case;
 - (f) there is a degree of remoteness between the court and actual decision-makers in the litigation, that is, even the simplest of decisions may be required to pass through layers of local, regional, national, general and house counsel;
- (2) whether there is a risk that centralization may unreasonably delay the progress, increase the expense, or complicate the processing of any action, or otherwise prejudice a party;
 - (3) whether centralized management is fair and convenient to the parties, witnesses and counsel;
 - (4) whether there is a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion;
 - (5) whether coordinated discovery would be advantageous;
 - (6) whether the cases require specialized expertise and case processing as provided by the dedicated mass tort judge and staff;
 - (7) whether centralization would result in the efficient utilization of judicial resources and the facilities and personnel of the court;
 - (8) whether issues of insurance, limits on assets and potential bankruptcy can best be addressed in coordinated proceedings; and
 - (9) whether there are related matters pending in Federal court or in other state courts that require coordination with a single New Jersey judge.

As discussed in detail below, evaluating the above-referenced criteria with respect to the matters identified in the Application illustrates that mass tort designation is not warranted.

I. Mass Tort Designation Is Not Warranted Because These Matters Are Already Being Centrally Managed.

To date, BMS has been served with one hundred and six (106) complaints all filed by the law firm of Garrity, Graham, Murphy, Garofalo & Flinn in the Middlesex County Superior Court. Presently, all one hundred and six (106) cases are being managed in a coordinated fashion; they have all been assigned to one judge, the Honorable James P. Hurley, P.J.S.C. In addition, we have been advised by the Middlesex County Superior Court Clerk's office that all future cases, should any be filed, also will be assigned to the Honorable James P. Hurley, P.J.S.C.¹ No cases have been filed in any other jurisdictions, and there is no indication that any cases will be filed in any jurisdictions other than the Middlesex County Superior Court. Indeed, plaintiffs' claims all concern alleged events which occurred in New Brunswick, New Jersey.

As a result of the coordinated management effort that has already been accomplished by the Middlesex County Superior Court, there is no fear of duplicative or inconsistent rulings, orders or judgments because one judge will be handling all of these cases. Furthermore, because these matters are already being managed in a centralized and coordinated fashion, there will be no inconvenience to any of the parties. Similarly, judicial resources, facilities and personnel of the court will be utilized efficiently because the matters are being handled by one judge, in one jurisdiction.

Finally, discovery will be sought in a coordinated fashion because all one hundred and six (106) cases were filed by one law firm, are venued in one jurisdiction, and are being overseen by one judge. Indeed, discovery is already being sought in a coordinated fashion. BMS has received plaintiffs' First Request for Production of Documents. Plaintiffs' request is captioned in the name of five different cases, and the discovery requests ostensibly will apply to all one hundred and six (106) cases.

The concerns presented in Directive #10-07 regarding centralized management are not pertinent to the matters described in the Application filed by Garrity, Graham, Murphy, Garofalo & Flinn. All of these cases are already being managed in a centralized and efficient fashion. Accordingly, mass tort designation is not warranted.

¹ On September 5, 2008, BMS was served with an additional seven complaints which make the same allegations as the one hundred six (106) cases identified on Schedule A. These seven cases were also filed by the law firm of Garrity, Graham, Murphy, Garofalo & Flinn. According to the judiciary website, all seven cases have been assigned to the Honorable James P. Hurley, P.J.S.C.

II. The Characteristics of the Individual Cases Do Not Warrant Mass Tort Designation.

Applying the individual characteristics described in point (1) of Directive #10-07 to the cases identified in the Application also illustrates that mass tort designation is not warranted. Plaintiffs make various claims surrounding alleged environmental contamination in New Brunswick, New Jersey over a 103 year period. Despite the suggestion otherwise, the only similarity between each plaintiff's case is that, at various points in time, and for various lengths of time, each plaintiff resided in New Brunswick, New Jersey, or visited someone who resided in New Brunswick, New Jersey. No commonality of injuries or damages has been alleged, much less identified.

As plaintiffs' counsel explained in the Application, "some" of the plaintiffs allege personal injuries in the form of diagnosed diseases and medical conditions. Plaintiffs' counsel, however, has not identified what diagnosed diseases and medical conditions they are claiming, or if they are even claiming the same alleged diseases or conditions. Other plaintiffs are not claiming any personal injuries in the form of diagnosed diseases and medical conditions, and instead allege that they have been caused to "suffer as yet undetected anatomical and/or physiological changes and cellular damage that are not as yet manifest". Due to the varying injuries alleged, plaintiffs' cases will depend, in large part, on individualized issues and factors.

Similarly, each complaint makes individualized case-specific assertions that vary from plaintiff-to-plaintiff. Some plaintiffs are making wrongful death and survivorship claims, including claims arising from deaths that occurred more than forty years ago, others property damage claims, others per quod claims, and finally others, medical monitoring claims. As a result of these differences, there is no commonality of injuries or damages that justifies mass tort designation.

Finally, there are no common or recurring issues of law or fact with respect to plaintiffs' cases. As discussed above, the only common thread between plaintiffs' claims is the assertion that they each resided in, or visited someone who resided in New Brunswick, New Jersey over a 103 year period. Liability determinations will vary for each case based on individualized factors both in terms of the individualized plaintiff's claims and the activities that may have been taking place at the site during the period of alleged contamination or exposure. In addition, causation determinations will also vary for each case based on individualized factors including what is anticipated to be a myriad of unrelated medical claims. Accordingly, mass tort designation is not warranted.

Honorable Philip S. Carchman, P.J.A.D.
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Conclusion

For the foregoing reasons, BMS respectfully requests that the Court deny the application for mass tort designation and centralized management of litigation. In the alternative, should the Court find that mass tort designation is warranted, BMS respectfully requests that the matters be centralized in the Mass Tort Division of the Middlesex County Superior Court.

Very truly yours,

SEDGWICK, DETERT, MORAN & ARNOLD LLP

A handwritten signature in black ink, appearing to read 'Michael A. Tanenbaum', with a large, stylized flourish extending to the right.

Michael A. Tanenbaum

MAT/mh

cc: Thomas D. Flinn, Esq.

SCHEDULE A

	CASE NAME	DOCKET NO.
1	CINDY JOHNSON, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF VANESSA WRIGHT JENNINGS COOK	MID-L-3703-08
2	BERKELEY TAYLOR and ELWOOD TAYLOR	MID-L-3704-08
3	ELWOOD TAYLOR and BERKELEY TAYLOR	MID-L-3705-08
4	ESTHER B. WHITEHEAD	MID-L-3706-08
5	ESTHER B. WHITEHEAD, ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF DONALD WHITEHEAD	MID-L-3710-08
6	LARRY JEAN WHITEHEAD and LOUISE WHITEHEAD	MID-L-3712-08
7	JOSETTE PRICE	MID-L-3714-08
8	LUCY WRIGHT, ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE HERBERT WRIGHT	MID-L-3726-08
9	PATRICIA BERRIAN-HARRIS as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE DORIS BERRIAN	MID-L-3750-08
10	WARREN RUSHING, III ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM FOR THE HEIRS AT LAW OF THE ESTATE OF WARREN RUSHING, SR.	MID-L-3751-08
11	RAYMOND GREEN and ELAINE GREEN, His Wife	MID-L-3753-08
12	VERONICA JACKSON DAVILA, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF FRED JACKSON	MID-L-3754-08
13	MARCEL BERRIAN as ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF MORRIS BERRIAN	MID-L-3755-08
14	DELORES LUSTER	MID-L-3756-08
15	DAVID HOWARD INDIVIDUALLY AND AS GUARDIAN AD LITEM OF SAUWN HOWARD	MID-L-3758-08
16	WILLIAM BARROOD and CAROL BARROOD, His Wife	MID-L-3759-08
17	BEATRICE JONES	MID-L-3760-08
18	FANNIE HOLMES AS ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE ROOSEVELT PRICE	MID-L-3761-08
19	ALICE M. BROOKS	MID-L-3762-08
20	BRUCE BROOKS as ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF BARBARA BROOKS WALKER	MID-L-3763-08
21	SYLEMON JORDAN as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE JIMMIE BOYD	MID-L-3764-08
22	RETHA MAE MCGEE and ROBERT MCGEE	MID-L-3767-08

23	JAMES B. PATTON as ADMINISTRATOR and ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF JUANITA PATTON	MID-L-3768-08
24	JANICE BAIN as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE JOHNNIE SAMUEL MILLER	MID-L-3769-08
25	ROBERT NIKOVICS ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF MARY FRANCES CELONA-NIKOVICS	MID-L-3770-08
26	JAMES PATTON as ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF WILLIAM PATTON	MID-L-3773-08
27	STEVEN SCOTT, ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF ELMIRA SCOTT	MID-L-3775-08
28	RENEE LYONS, INDIVIDUALLY AND AS GUARDIAN AD LITEM OF AALIYAH LYONS and SHAALIYAH LYONS and LARRY LYONS, Her Husband	MID-L-3777-08
29	JOHN W. DUDLEY and ICY MAE DUDLEY	MID-L-3779-08
30	DEBORAH ANDERSON and ARTHUR ANDERSON, husband and wife	MID-L-3780-08
31	ANGIE SEAMAN, ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM FOR THE HEIRS AT LAW OF THE ESTATE OF JOSEPH SAIA	MID-L-3781-08
32	ANTHONY BUGNIKOS, ADMINISTRATOR AND ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF NINA BUGNIKOS	MID-L-3782-08
33	WILL H. PORTER, JR. and SHARON PORTER	MID-L-3783-08
34	SHAKERA STYLES INDIVIDUALLY AND AS GUARDIAN AD LITEM OF TAJGIE STYLES, KEVIN HARRELL and HEAVEN STYLES	MID-L-3785-08
35	CINDY JOHNSON and LARRY JOHNSON	MID-L-3787-08
36	CAROL BARROOD and WILLIAM BARROOD, husband and wife	MID-L-3788-08
37	WILLIAM BARROOD, as Administrator Ad Prosequendum for the heirs at law of JOHN A. BARROOD, deceased, as Administrator of the Estate of JOHN A . BARROOD and individually	MID-L-3790-08
38	BRENDA SUBER ALLAN	MID-L-3791-08
39	STACEY PORTER as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF GLENNIE MAE PORTER	MID-L-3792-08
40	IDELLA COOKE, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE DAVID G. COOKE	MID-L-3793-08
41	WILBUR JENNINGS	MID-L-3795-08
42	MARIE BOWLER	MID-L-3796-08
43	BARNETT THOMPSON, INDIVIDUALLY AND AS GUARDIAN AD LITEM OF BRITNI THOMPSON	MID-L-3797-08
44	GENEVA BOYKINS and CURLIE BOYKINS, husband and wife	MID-L-3798-08
45	ALBERTA NASH	MID-L-3800-08
46	ICY MAE DUDLEY and JOHN DUDLEY	MID-L-3801-08

47	MARIE BOWLER as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE EDWARD J. BARROOD	MID-L-3802-08
48	MARIE BOWLER as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF MARY BARROOD	MID-L-3804-08
49	TOM BRANTLEY, JR., ADMINISTRATOR AND ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF GALINA BRANTLEY	MID-L-3806-08
50	CONNIE PHIPPS	MID-L-3807-08
51	TIMOTHY BROWN and MONESIA BROWN, husband and wife	MID-L-3808-08
52	CATERINA SAIA	MID-L-3809-08
53	ELOISE BYRD JACOBS, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF JOSEPH BYRD	MID-L-3811-08
54	CONNIE PHIPPS as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF CORINNE PHIPPS	MID-L-3812-08
55	DERRICK CAPERS	MID-L-3813-08
56	ROBIN CAPERS INDIVIDUALLY AND AS GUARDIAN AD LITEM OF KHADIJAH CAPERS and HELEN CAPERS, His Wife	MID-L-3815-08
57	JOHN WALLACE MANDEVILLE, III and THELMA MANDEVILLE	MID-L-3816-08
58	CONNIE PHIPPS as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE CHARLES PHIPPS	MID-L-3817-08
59	ALFRIEDA PHILLIPS, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF VEADA PITTMAN	MID-L-3818-08
60	BARNETT THOMPSON ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM FOR THE HEIRS AT LAW OF THE ESTATE OF PAMELA THOMPSON	MID-L-3819-08
61	ALFRIEDA PHILLIPS and ERNEST PHILLIPS	MID-L-3820-08
62	RUSSELL THOMPSON, JR.	MID-L-3821-08
63	BETTY DOWNS and JOHN DOWNS, Her Husband	MID-L-3822-08
64	ELOISE BYRD JACOBS, ADMINISTRATRIX AND ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF JOHNNIE LEE JACOBS	MID-L-3823-08
65	OTIS YOUNG and LUCILLE YOUNG	MID-L-3824-08
66	SYLEMON JORDAN	MID-L-3825-08
67	ROBIN GLOVER-SCHENCK as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE ROSELYN BROWN GLOVER	MID-L-3826-08
68	MICHELLE STYLES INDIVIDUALLY AND AS GUARDIAN AD LITEM OF BRIA STYLES and TRACY STYLES, Her Husband	MID-L-3828-08
69	MONESIA BROWN, Individually and as Guardian Ad Litem of Caitlyn Brown and Noah Brown, and TIMOTHY BROWN, Her Husband	MID-L-3830-08
70	GLYNDA RUSHING and WARREN RUSHING III, Her Husband	MID-L-3833-08
71	SHIRLEY WHITE and RAYMOND WHITE	MID-L-3837-08

72	EDWARD SMITH and GABRIELLE SMITH	MID-L-3839-08
73	LOUISE WHITEHEAD and LARRY WHITEHEAD, Her Husband	MID-L-3840-08
74	ELOISE BYRD JACOBS	MID-L-3841-08
75	RUTH JACKSON	MID-L-3842-08
76	LUELLA CRAWFORD, ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF KENNETH PITTMAN	MID-L-3844-08
77	JOHN WALLACE MANDEVILLE, ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF CUMI MANDEVILLE	MID-L-3857-08
78	CARRIE GREEN and LACY GAY	MID-L-3866-08
79	STEPHANIE GLOVER	MID-L-3867-08
80	ALFRIEDA PHILLIPS as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF WILLIAM SCOTT PITTMAN	MID-L-3868-08
81	JEAN FONTAINE and JAMES FONTAINE	MID-L-3869-08
82	STACEY PORTER as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF WILL H. PORTER, SR.	MID-L-3870-08
83	FANNIE HOLMES as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE VERTIA MAE PRICE	MID-L-3872-08
84	JAMES FONTAINE and JEAN FONTAINE	MID-L-3873-08
85	CHERYL JENNINGS REESE	MID-L-3874-08
86	LUCY WRIGHT	MID-L-3951-08
87	GEORGE TAYLOR	MID-L-3952-08
88	NICOLE FLEMING	MID-L-3966-08
89	MICHELLE ABRAMS	MID-L-3967-08
90	JOHN DOWNS and BETTY DOWNS, His Wife	MID-L-3975-08
91	BRENDA SUBER ALLEN as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE LACERINE SUBER	MID-L-3976-08
92	VICTORIA CRUSE ABSUD SALAAM, as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF GOLDIE THOMAS	MID-L-3978-08
93	ANN SMITH	MID-L-3983-08
94	ANNIE REE HUNTER	MID-L-3984-08
95	BOBBIE LEE HALYER and WILLIE JAMES HALYER, Her Husband	MID-L-3985-08
96	DENNIS GARRISON	MID-L-3986-08
97	ROSA MAE FLEMING as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF JAMES FLEMING	MID-L-3987-08
98	CAROL THOMAS MILLER	MID-L-3988-08
99	EDNA JENNINGS as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE OF LAWRENCE JENNINGS a/k/a HINTON JENNINGS	MID-L-3989-08

100	MINNIE GIBSON and LESTER GIBSON, Her Husband	MID-L-4155-08
101	ANTHONY CELONA and MARY CELONA, His Wife	MID-L-4158-08
102	CATHERINE EGAN and JAMES R. EGAN, Her Husband	MID-L-4159-08
103	CHRISTOPHER RUFFIN as ADMINISTRATOR and ADMINISTRATOR AD PROSEQUENDUM OF THE ESTATE OF ELEANOR M. RUFFIN	MID-L-4160-08
104	DEBORAH CELEY as ADMINISTRATRIX and ADMINISTRATRIX AD PROSEQUENDUM OF THE ESTATE HOVER CELEY	MID-L-4448-08
105	CONCETTA D'ANDREA, INDIVIDUALLY AND AS GUARDIAN AD LITEM OF CHRISTINA M.L. D'ANDREA, Her Daughter	MID-L-4452-08
106	TONY NAIL and JANIE NAIL, His Wife	MID-L-4454-08