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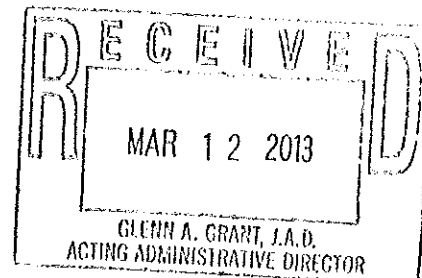
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March 12, 2013



VIA HAND DELIVERY

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

**RE: *Response to the Joint Request for Reconsideration of Designation of Mirena®
Litigation as a Multicounty Litigation for Centralized Management***

Dear Judge Grant:

Our office represents Plaintiff, Tammy DeLeon, whose case is currently pending in the Superior Court of New Jersey, Bergen County, Docket Number: BER-L-1605-13. Ms. DeLeon's lawsuit involves the Mirena® intrauterine contraceptive device ("Mirena®").

We submit this letter in response to the Joint Requests for Reconsideration of Designation of Mirena® Litigation as a Multicounty Litigation for Centralized Management which were recently filed by both representatives of Plaintiffs and the named Defendants, Bayer Healthcare Pharmaceuticals, Inc. and other Bayer entities. Both parties seek to have the New Jersey Mirena® litigation designated as a multicounty litigation – one notable distinction in the applications is that Plaintiffs take no position on which vicinage the motion should be assigned while Defendants seek centralization in Middlesex County. The undersigned does not object to the centralized management of the Mirena litigation, but does respectfully request that the cases instead be consolidated for centralized management before the Honorable Brian R. Martinotti in Bergen County.

I. THE PARTIES

The Defendants in these products liability cases are Bayer Healthcare Pharmaceuticals, Inc., and a number of additional Bayer related entities (collectively "Bayer"). Bayer's principal place of business is located in Morris County. The plaintiffs are individuals who hale from New Jersey as well as other states. To date, a number of Mirena® complaints have been filed in Morris, Essex and Bergen Counties.

II. VENUE

Consideration of the relevant factors - fairness, geography and existing case load - leads to the conclusion that Bergen County provides the most appropriate vicinage for centralized management. *See Multicounty Litigation Guidelines and Criteria for Designation* (September 4, 2012).

A. JUDGE MARTINOTTI'S VAST EXPERIENCE OVERSEEING OTHER BIRTH CONTROL LITIGATIONS STRONGLY FAVORS BERGEN COUNTY AS THE FORUM FOR THIS MULTICOUNTY LITIGATION

Over the last four years, Judge Martinotti has managed two leading birth control litigations: Yaz/Yasmin/Ocella (hereinafter "Yaz") and NuvaRing.

The Yaz litigation, which also involves the Bayer Defendants, includes allegations that Yaz was associated with an increased risk of blood clots and strokes. The Yaz cases have been centralized in Bergen County since February 2010 and since that time, considerable attention has been paid to the science and mechanism of action of oral contraceptives. As a result of extensive motion practice, numerous case management conferences and day-to-day oversight of the Yaz cases, Judge Martinotti obtained invaluable experience and expertise in this area of medicine. While the allegations in Mirena are not exactly the same as in Yaz, the medical tutorial that Judge Martinotti received on the subject of birth control will prove vital when scientific and medical issues invariably arise in the Mirena cases. This knowledge base of birth control products cannot be underestimated.

Similarly, NuvaRing, a birth control product that is also alleged to cause blood clots and strokes, was designated as a multicounty litigation in Bergen County in March 2009. A NuvaRing bellwether trial is scheduled for later this year and in advance of that trial, *Kemp* motions and Motions for Summary Judgment have been briefed and prepared to be argued before Judge Martinotti. Although the allegations, injuries and warnings for Mirena are different than NuvaRing, birth control is, once again, the product at-issue. The background information that Judge Martinotti has been exposed to via the trial preparation process and current motion practice provides him with a huge lead at the starting gate. Given Judge Martinotti's experience with the relevant medical issues, there will be little learning curve and the Mirena® litigation will be up and running immediately.

Additionally, not only does Judge Martinotti have significant experience with birth control devices, claims and defenses - the Yaz litigation also provided Judge Martinotti with invaluable familiarity and insight concerning the defendant in the Mirena cases - Bayer. Issues concerning Bayer's document retention and production, its members, foreign workers and a general understanding of Bayer's policies and procedures are known to the Bergen County Court and, as such, can be much more easily addressed in light of this background knowledge. It is respectfully submitted that judicial resources are best served by appointing Judge Martinotti to manage this litigation when he and his staff already possess a wealth of information and experience in the relevant subject areas.

B. BAYER'S PRINCIPAL PLACE OF BUSINESS IS IN CLOSE PROXIMITY TO BERGEN COUNTY

Both the Bergen County and Middlesex County courthouses are easily accessible from all major transportation hubs. While each courthouse is readily accessible, it should be noted that Bayer's principal place of business, as well as its central employees and documents, are located in Morris County. These facts are noteworthy as the Bergen County courthouse is approximately half the distance from Bayer's principal place of business when compared to the Middlesex County courthouse. Due to the easy accessibility and close proximity to Defendants' principal place of business, Bergen County is the geographically superior location for all interested parties in these matters.

C. THE MULTICOUNTY LITIGATION DOCKET SUPPORTS BERGEN COUNTY

The Court's central inquiry as to "the existing civil and mass tort caseload in the vicinage" favors Bergen County as well. Middlesex County currently presides over six (6) pharmaceutical/medical device multicounty litigations including AlloDerm Regenerative Tissue Matrix, Gadolinium, HRT, Propecia, Risperdal/Seroquel/Zyprexa, and Zometa/Aredia, while Bergen County presently presides over four (4) pharmaceutical/medical device litigations including Stryker Hip/ABG II Modular Hip Stem, DePuy ASR Hip Implant, NuvaRing, and Yaz/Yasmin/Ocella. The active multi-county caseload in Bergen County is 1,992 cases, which is only slightly higher than the 1,697 cases which make up the multi-county caseload in Middlesex County. *See New Jersey Judiciary, CIVIL CASELOAD SUMMARY BY CASETYPE, July, 2012-January, 2013, Middlesex and Bergen Counties*

<http://www.judiciary.state.nj.us/quant/cman1301.pdf>

III. CONCLUSION

For the foregoing reasons, Plaintiffs do not oppose the Mirena® litigation being centralized as a multicounty litigation in New Jersey but respectfully request that the management occur in Bergen County.

Respectfully submitted,



Gregory S. Spizer

GSS/sdt

cc: **Couplin Duffy LLP**
Johnson Becker PLLC
Motley Rice, LLC
Myers & Flowers LLC
Heninger, Garrison Davis, LLC
The Lanier Law Firm
The Levensten Law Firm