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April 21, 2025

VIA EMAIL (comments.mailbox@njcourts.gov)

Acting Administrative Director of the Courts
Attention: MCL Application – Juvenile Detention Facilities
Hughes Justice Complex, P.O. Box 37
Trenton, New Jersey 08625-0037

Re: Opposition to multicounty litigation application – “New Jersey State Court litigation involving allegations of sexual abuse in juvenile detention facilities operated by the State of New Jersey”

Dear Acting Administrative Director of the Courts:

We represent the State of New Jersey (“State”). We write in opposition to the March 12, 2025 multicounty litigation (“MCL”) application by certain plaintiffs and other individuals (collectively, “applicants”).

The March 20, 2025 Notice to the Bar stated that comments and objections to this MCL application were due by April 20, 2025, which was Easter Sunday. Accordingly, we understand that comments and objections are due today. See, e.g., R. 1:3-1.

Thank you for your consideration of this opposition. For the reasons addressed herein, an MCL designation is not appropriate under R. 4:38A and Directive #02-19, and applicants’ request should be denied.

I. Preliminary Statement

Applicants have not come close to meeting their burden of demonstrating that MCL designation is necessary and appropriate under R. 4:38A and Directive #02-19. Applicants' MCL request, if granted, would expand the concept of MCL designation beyond any MCL that the Court has ever approved in New Jersey, as listed on the Administrative Office of the Court's ("AOC") website.

The nine lawsuits filed by applicants through the Levy Konigsberg, LLP law firm ("Levy Konigsberg") involve allegations of sexual abuse against scores, if not hundreds, of different alleged abusers at numerous facilities across five decades, beginning in the 1970s and extending into the 2010s. Indeed, the alleged sexual abuses span separate time periods for each plaintiff and encompass the 1970s, 1980s, 1990s, 2000s and 2010s. A tenth lawsuit has been filed by another law firm, which the State addresses herein as well.

The allegations in the complaints refer to alleged perpetrators at multiple New Jersey facilities presently operated by the New Jersey Youth Justice Commission ("YJC") (formerly known as the New Jersey Juvenile Justice Commission, or JJC) or the New Jersey Department of Human Services ("DHS"). The New Jersey Department of Corrections ("DOC") operated some of these facilities before the YJC's establishment as the JJC in 1995. The complaints' alleged abuses vary widely from improper touching, groping and masturbation to forced oral sexual acts, rape, anal rape and anal rape with objects. Some plaintiffs refer to a single act of abuse. Others allege multiple abuses by multiple perpetrators over extended periods of time.

None of the MCLs listed on the AOC's website involves or involved such circumstances. Rather, all of the MCLs involve or involved the very type of matter set forth in Directive #02-19, one that:

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;...

Directive #02-19 (emphasis added).

In addition, the New Jersey Legislature has expressly required with respect to sexual abuse actions that:

Every action at law for an injury [from sexual abuse] that is commenced pursuant to this section shall proceed on an individual basis, and not proceed on behalf of a class in a class action, due to the particular circumstances, source of injury and its discovery, and damages relating to each occurrence or occurrences of sexual assault....

N.J.S.A. 2A:14-2a(c)(1); N.J.S.A. 2A:14-2b(c)(1) (emphasis added).

Thus, not only has the Legislature expressly prohibited “class actions” in sexual abuse cases, but it has gone even further and expressly mandated that sexual abuse cases “proceed on an individual basis”, specifically explaining why – “due to the particular circumstances, sources of injury and its discovery, and damages relating to each occurrence or occurrences of sexual assault”. MCL designation here would run afoul of these clearly expressed legislative prohibitions.

See id.

As shown herein, the factors enumerated in Directive #02-19 and the applicable law demonstrate that MCL designation is not warranted.

II. Factual and Procedural Background

The pending lawsuits may be summarized as follows:

	Case name	Docket no.	County and Assigned Judge	Complaint filing date	Number of plaintiffs
1.	<u>J.A.</u>	MID-L-329-24	Middlesex Judge Gary Wolinetz	1/18/24	50
2.	<u>A.R.</u>	MID-L-1348-24	Middlesex Judge Joseph Rea	2/29/24	25
3.	<u>D.R.</u>	SOM-L-498-24	Somerset	4/22/24	5

			Judge Wendy Reek		
4.	<u>T.C.</u>	MID-L-2476-24	Middlesex Judge Bina Desai	4/25/24	20
5.	<u>J.G.</u>	BUR-L-1145-24	Burlington Judge James Ferrelli	6/5/24	8
6.	<u>L.B.</u>	MID-L-1608-25	Middlesex Judge Joseph Rea	3/17/25	27
7.	<u>K.C.-I</u>	MRS-L-751-25	Morris Judge Noah Franzblau	3/27/25	23
8.	<u>H.B.</u>	SOM-L-504-25	Somerset Judge John Bruder	4/3/25	3
9.	<u>M.M.</u>	MON-L-1273-25	Monmouth Judge David Nitti	4/3/25	13
10.	<u>D.M.P.</u> ¹	MID-438-25	Middlesex Judge Christopher Rafano	1/23/25	28
Total					202

We address each complaint in turn below. Each complaint includes six causes of action: (1) violations of the New Jersey Child Sex Abuse Act (“CSAA”), N.J.S.A. 2A:61B-1, et seq.; (2) negligence; (3) negligent hiring, training, supervision and retentions; (4) failure to warn and implement adequate policies “to educate, identify, prevent, and stop child sexual abuse from occurring to the children under its care”; (5) violation of the New Jersey Constitution’s Due Process Clause; and (6) violation of the New Jersey Constitution’s Cruel and Unusual Punishment Clause. D.M.P. also contains claims for gross negligence and breach of fiduciary duty.

The complaints in J.A., A.R., T.C., L.B., K.C.-I, M.M. and D.M.P. encompass scores, if not hundreds, of individual occurrences of alleged sexual abuse with varying degrees of severity. The

¹ The D.M.P. complaint was filed by Baldante & Rubenstein, P.C., not Levy Konigsberg. The March 12, 2025 application does not state whether applicants intend to include lawsuits filed by law firms other than Levy Konigsberg within their requested MCL designation. Nevertheless, in the interest of completeness, the State addresses D.M.P. herein.

complaints in D.R., J.G. and H.B., which include a smaller number of plaintiffs, contain tens of such occurrences, again with varying degrees of severity.

Each complaint includes plaintiffs who claim to be the victim of a single sexual abuse and plaintiffs who allegedly suffered multiple abuses by multiple abusers. It appears that the only exception is D.R., in which all plaintiffs allege multiple abuses and abusers.

Each complaint attempts to identify many alleged perpetrators with various levels of detail, none of whom have been named as defendants. Thus, prosecuting each complaint will require the adjudication of significant third-party claims and extensive discovery unique to each complaint's plaintiffs, facilities, time frames, frequency and types of alleged abuse, alleged abusers, alleged witnesses and alleged injuries and damages. The third-party claims will require the participation of at least scores of additional attorneys to represent the relevant parties, namely the alleged abusers. No plaintiff specifies the alleged accrual date of his or her causes of action.

A. The J.A. complaint (filed January 18, 2024)

The complaint in J.A. ("JAC") encompasses:

- 50 plaintiffs.
- The New Jersey Training School in Jamesburg, Monroe Township ("NJTS-Jamesburg"). (JAC, ¶1)
- Claimed abuse that "stretches across five decades from the 1970s to the 2010s" (id.), and that is described in more than 400 paragraphs.
- Alleged abuse broadly ranging from groping and fondling to beatings, anal rape and rape with a walkie-talkie antenna. (E.g., ¶¶78, 120, 179, 258)
- Approximately 90 alleged abusers.
- 91 pages and 573 paragraphs.

B. The A.R. complaint (filed February 29, 2024)

The complaint in A.R. ("ARC") entails:

- 25 plaintiffs.
- NJTS-Jamesburg. (ARC, ¶1)
- Claimed abuse that "stretches across five decades from the 1970s to the 2010s" (id.), and that is described in more than 230 paragraphs.

- A broad range of alleged abuse that includes groping and fondling, as well as beatings by staff and other residents, anal rape and digital anal penetration. (E.g., ¶¶98, 132, 133, 199)
- Approximately 38 alleged abusers.
- 60 pages and 342 paragraphs.

C. The D.R. complaint (filed April 22, 2024)

The allegations of the D.R. complaint (“DRC”) include the following:

- 5 plaintiffs.
- NJTS-Jamesburg. (DRC, ¶1)
- Described in more than 50 paragraphs, claimed abuse that allegedly occurred between 1984 and 1990. (E.g., ¶¶29, 40, 52, 62, 71)
- Claimed abuse varying from oral sex to digital anal penetration to anal rape. (¶¶34, 42, 55)
- Approximately 7 alleged abusers.
- 28 pages and 142 paragraphs.

D. The T.C. complaint (filed April 25, 2024)

The T.C. complaint (“TCC”) includes the following:

- 20 plaintiffs.
- NJTS-Jamesburg. (TCC, ¶1)
- Claims of abuse that “stretch[] across four decades, from the 1980s to the 2010s” (*id.*), alleged in more than 200 paragraphs.
- Allegations of abuse ranging from “fondling” (e.g., ¶¶96) to beatings coupled with anal rape and anal rape with batons (E.g., ¶¶116-17).
- Approximately 33 alleged abusers.
- 54 pages and 313 paragraphs.

E. The J.G. complaint (filed June 4, 2024)

The J.G. complaint (“JGC”) includes the following:

- 8 plaintiffs.
- The YJC’s Johnstone Campus in Bordentown, the Albert Elias Residential Community Home, also in Bordentown, and the Costello Prep Residential Community Home in Tabernacle. (JGC, ¶1, fn. 1-2)
- Alleged abuse occurring between 1998 and 2010 (¶¶32, 41, 51, 60, 69, 76, 83, 90), set forth in approximately 66 paragraphs.
- Allegations of abuse varying from groping to masturbation to oral and digital penetrative vaginal sex. (E.g., ¶¶43, 53, 62)
- Approximately 8 alleged abusers.

- 33 pages and 162 paragraphs.

F. The L.B. complaint (filed March 17, 2025)

The L.B. complaint (“LBC”) encompasses allegations of the following:

- 27 plaintiffs.
- NJTS-Jamesburg. (LBC, ¶1)
- Claimed abuse that “stretches across four decades from the 1980s to the 2010s occurring between 1998 and 2010 (¶1), as alleged in approximately 249 paragraphs.
- Abuse allegations ranging from groping and masturbation to oral and digital penetrative vaginal sex, anal rape and digital anal penetration. (E.g., ¶54, 55, 63, 104)
- Approximately 40 alleged abusers.
- 65 pages and 367 paragraphs.

G. The K.C.-I complaint (filed March 27, 2025)

The K.C.-I complaint (“KC-IC”) entails the following:

- 23 plaintiffs.
- Certain privately-owned and -operated “Daytop Village” treatment facilities to which DHS referred plaintiffs for substance abuse treatment. (KC-IC, ¶1)
- Alleged abuse between 1993 and 2017, as described in approximately 364 paragraphs.
- Claimed abuse involving “sexual contact, sexual penetration, sexual touching, coercive sexual contact, and rape”. (¶14)
- Approximately 31 alleged abusers.
- 81 pages and 536 paragraphs.

H. The H.B. complaint (filed April 3, 2025)

The H.B. complaint (“HBC”) entails the following:

- 3 plaintiffs.
- The New Jersey Training School at Skillman, Montgomery Township (“NJTS-Skillman”). (HBC, ¶1, 32)
- Alleged abuse between 1993 and 2017, as described in approximately 28 paragraphs.
- Allegations of abuse varying from groping to digital anal penetration and anal rape. (E.g., ¶29, 30, 51)
- Approximately 7 alleged perpetrators.
- 25 pages and 119 paragraphs.

I. The M.M. complaint (filed April 3, 2025)

The M.M. complaint (“MMC”) entails the following:

- 13 plaintiffs.
- The DHS’ Arthur Brisbane Child Treatment Center in Wall Township. (MMC, ¶1)
- Claimed abuse that “stretches nearly 2 decades from the 1984 to 2003” (¶4), as described in approximately 121 paragraphs.
- Alleged abuse ranging from fondling and masturbation to sexual intercourse, penetrative vaginal sex, digital penetrative vaginal sex, anal rape and anal rape with a toilet brush. (E.g., ¶66, 116, 134, 178, 180)
- Approximately 18 alleged perpetrators.
- 49 pages and 255 paragraphs.

J. The D.M.P. complaint (filed January 23, 2025)

The D.M.P. complaint (“DMPC”) entails the following:

- 28 plaintiffs.
- NJTS-Jamesburg. (DMPC, ¶1)
- Alleged abuse that “stretches across four decades from the 1980s to the 2010s” (*id.*), as set forth in more than 400 paragraphs.
- Alleged abuse varying from oral sex and mutual masturbation to penetrative anal sex. (E.g., ¶56, 59, 100, 101)
- Approximately 39 alleged perpetrators.
- 84 pages and 527 paragraphs.

III. Legal Argument

The legal standards for MCL designation under R. 4:38A and Directive #02-19 do not warrant such designation in this matter. Notably, all of the MCLs listed on the AOC’s website involve or involved a single product, mass disaster or complex environmental or toxic tort – just as Directive #02-19 expressly provides. (<https://www.njcourts.gov/attorneys/multicounty-litigation#toc-mcl-by-county>) None involve or involved the circumstances here: allegations of sexual abuse against scores, if not hundreds, of different alleged abusers at numerous facilities across five decades. Indeed, applicants’ MCL request encompasses (1) 202 plaintiffs, (2) numerous

alleged abusers,² (3) many hundreds, if not thousands, of alleged incidents of abuse (4) during the 1970s, 1980s, 1990s, 2000s and 2010s (5) at eleven State facilities in at least five counties, as well as at private facilities in a sixth county.

A. The applicable legal standards for MCL designation

Rule 4:38A states:

The Supreme Court may designate a case or category of cases as Multicounty Litigation to receive centralized management in accordance with criteria and procedures promulgated by the Administrative Director of the Courts upon approval by the Court. Promulgation of the criteria and procedures will include posting in the Multicounty Litigation Information Center on the Judiciary's Internet website (njcourts.com).

R. 4:38A.

Directive #02-19 states in relevant part that the Court will consider certain enumerated factors, among others, in determining whether an MCL designation is warranted. The first factor asks, among other things, whether the cases “involve[] 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.” Other considerations include whether there is a high degree of commonality of injury or damages among the plaintiffs, a value interdependence between different claims and a degree of remoteness between the court and actual decisionmakers in the litigation. Other factors under Directive #02-19 include whether there is a risk of unreasonable delay, increased expense or prejudice to a party from centralization, and a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion.

² The complaints indicate up to approximately 311 alleged abusers, though it is difficult to identify each individual alleged abuser because the complaints describe the alleged abusers without sufficient detail to enable the State, to date, to identify more than a handful of alleged abusers. Thus, it is possible that some of the as-yet-unidentified alleged abusers may have allegedly abused multiple plaintiffs.

The Court also assesses whether coordinated discovery would be advantageous; whether the cases require specialized expertise and case processing as provided by the dedicated MCL judge and staff; and whether there are related matters pending in federal court or in other state courts that require coordination with a single New Jersey judge. Please see exhibit A hereto for Directive #02-19.

B. The factors set forth in Directive #02-19 do not warrant MCL designation here

I. The Court has only approved MCL designation for cases involving a single product or complex environmental or toxic tort as prescribed in Directive #02-19

Directive #02-19 only authorizes MCL treatment when the relevant matters “involve[] 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”. (<https://www.njcourts.gov/attorneys/multicounty-litigation#toc-mcl-by-county>) As noted, all of the MCLs listed on the AOC’s website fit that description.

Consider the twenty-two MCLs in Atlantic, Bergen and Middlesex Counties under the Heading “MCL By County”. in Atlantic County, all eight MCLs involve products, including a medication prescribed to treat schizophrenia and other mental disorders; various hernia mesh products; a proton-pump inhibitor used to prevent and treat acid-related conditions; an asthma drug; and a talc-based body powder product. The ten Bergen County MCLs likewise involve products, including a breast implant; a catheter; hip implants; pelvic mesh; and bladder and leukemia drugs. And the four Middlesex County MCLs involve either a complex toxic tort (asbestos) or various products (an osteoporosis drug; a chemotherapy product; and a shingles vaccine).

The same pattern applies to the fourteen “Archived MCLs”. Those matters involved drug products (e.g., an acne drug; an antibiotic; a high blood pressure medication; a drug for treating gastrointestinal problems; an oral contraceptive; and drugs for treating schizophrenia and other mental health disorders), other types of products (a human tissue graft product; a hair loss treatment; an intrauterine contraceptive device, or IUD; hip implants; and a fire engine siren that was associated with firefighters’ occupational hearing loss) and complex environmental torts (contamination from a pharmaceutical manufacturer’s property; and contamination from the property of the defendant corporations in Pompton Lakes).

Tellingly, none of the MCLs involve or involved sexual abuse claims against numerous alleged perpetrators at many facilities operated by multiple agencies during five decades. This is consistent with the plain language of Directive #02-19, which identifies three specific categories of matters that warrant MCL treatment: those in which the alleged injuries flow from a single product or event.

The New Jersey Multicounty Litigation (Non-Asbestos) Resource Book (4th ed. Nov. 2014) confirms that an MCL designation is unwarranted here. ([www.https://www.njcourts.gov/sites/default/files/mcl/nonasbestosmanual.pdf](https://www.njcourts.gov/sites/default/files/mcl/nonasbestosmanual.pdf)) Authored by Chief Justice Stuart Rabner and Glenn A. Grant, P.J.A.D., Acting Administrative Director of the Courts, the Resource Book explained that:

The definition of a MCL in New Jersey derives from an identification of certain common case characteristics. Each group of cases designated as a MCL do exhibit many, if not all, of these characteristics. Thus far, there have been three general classes of cases determined to be MCLs. These include:

- large numbers of claims associated with a single product – for example, diet drugs or other large products liability cases such as tobacco, Norplant, breast implant, Propulsid, Rezulin, PPA and latex litigation.

- mass disasters: these cases are characterized by common technical and legal issues. The Durham Woods pipeline explosion litigation is a good example of this type of case.
- complex environmental cases and toxic torts: these cases are characterized by a large number of parties with claims arising from a common event. An example of this type of case is the Ciba-Geigy litigation, alleging air, water and soil pollution.

(Id. at 1)

As shown herein, the Supreme Court has never designated an MCL like the one that applicants propose here. Rather, in the intervening years, the Court has continued to limit MCLs to the three classes of cases identified in the Resource Book – those that meet the factor listed in Directive #02-19 that the cases involve claims “that are associated with a single product, mass disaster, or complex environmental or toxic tort”.

2. MCL designation is not warranted by Directive #02-19’s other factors or the applicable law

In addition, the other Directive #02-19 factors do not warrant MCL designation here. For instance, there is not a high degree of commonality of injury or damages among applicants. The complaints’ alleged abuses vary widely, from improper touching to rape. The complaints mention up to approximately 311 alleged abusers, although the exact number is unknowable at this juncture because the complaints describe the purported abusers without providing sufficient detail to enable the State to positively identify them or determine if the same individual was involved in multiple alleged assaults. Certain applicants refer to one act of abuse, whereas others allege multiple abuses by multiple abusers over extended periods of time. Given each applicant’s unique allegations as to the type and frequency of alleged abuse by different alleged abusers, each applicant’s claimed injury and damages – such as emotional harm or the alleged abuse’s negative impact on the applicant’s life – will be unique as well.

Because each of the applicants' claims is highly fact specific, coordinated discovery would not be advantageous, and there is no risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion. Indeed, adjudication of these matters will require discovery into broad and distinct timeframes at multiple different facilities. The underlying events alleged by 202 plaintiffs (and apparently by other claimants whom Levy Konigsberg represent) arose over the course of five decades in at least five counties at many different facilities operated by three different State agencies (and at private facilities in a sixth county). The relevant State facilities include (1) NJTS-Jamesburg (J.A., D.R., T.C., L.B., D.M.P.) (2) YJC's Johnstone Campus in Bordentown (J.G.), (3) the Albert Elias Residential Community Home in Bordentown (J.G.), (4) the Costello Prep Residential Community Home in Tabernacle (J.G.), (5) NJTS-Skillman (H.B.), (6) the Arthur Brisbane Child Treatment Center in Wall Township (M.M.), (7) the Residential Community Home in Voorhees, Camden County (plaintiff I.A. in T.C.), (8) Developing Opportunities and Values through Education and Substance Abuse Treatment Residential Community Home, or D.O.V.E.S., in East Amwell (identified by Levy Konigsberg, but suit not yet filed), (9) Life Skills and Leadership in Tabernacle (same) and (10 and 11) two Residential Community Homes in unidentified locations (same). At each relevant facility, many different administrators and staff were in charge of operations.

Highly individualized discovery predominates over common discovery. No two plaintiffs are the same, and no two plaintiffs share the same history of alleged abuse or the same history after they resided at a given facility. Thus, coordinated discovery would not be helpful because the identities of alleged abusers, the specific locations of the alleged abuses and the identities of potential corroborating witnesses and knowledgeable administrators and personnel would differ from case to case.

MCL designation therefore presents no advantage for discovery that does not already exist under the Court Rules' discovery procedures and given that one (or perhaps two) plaintiff law firms and one defense law firm are involved here. The cases can be effectively managed by the assigned judges and the cooperative efforts of the parties. Centralization is unnecessary to ensure convenient, coordinated and efficient litigation. See In re: Linear Gadolinium-Based Contrast Agents Products Liab. Litig., Case MDL No. 2868, Oct. 10, 2018 Order Denying Transfer, ECF #84 (J.P.M.L.) (emphasizing that consolidation was unwarranted because same law firm or firms working as co-counsel represented plaintiffs in most actions, which minimized possibility of duplicative discovery); In re: Adderall XR (Amphetamine/Dextroamphetamine) Mktg., Sales Practices & Antitrust Litig., 968 F. Supp.2d 1343, 1345 (J.P.M.L. 2013) (explaining that when litigation involves only small number of law firms, "informal cooperation among the involved attorneys and coordination between the involved courts" is preferable to centralization).

For example, there is no reason why discovery as to alleged events at NJTS-Jamesburg in the 1970s (J.A.) should be coordinated with discovery as to alleged events at the Johnstone Campus in Bordentown, the Albert Elias Residential Community Home in Bordentown or the Costello Prep Residential Community Home in Tabernacle between 1998 and 2010 (J.G.). Likewise, there is no reason why discovery as to alleged events at the YJC's NJTS-Skillman between 1986 and 1990 (H.B.) should be coordinated with discovery as to alleged events at the DHS' Arthur Brisbane Child Treatment Center in Wall Township between 1984 and 2003 (M.M.). These examples are illustrative, not exhaustive. The sheer variety and multiplicity of the material facts, injuries, damages, alleged abusers/potential third-party defendants, timeframes, facilities, witnesses and administrative personnel alleged in the ten complaints render coordinated discovery disadvantageous.

Moreover, plaintiffs did not name as defendants any alleged abusers, who are indispensable parties to these lawsuits. Rule 4:28-1 provides in relevant part: “(a) Persons to Be Joined if Feasible. A person who is subject to service of process shall be joined as a party to the action if (1) in the person's absence complete relief cannot be accorded among those already parties,....” The Rule further provides in pertinent part: “(b) Disposition by Court if Joinder Not Feasible. If a person should be joined pursuant to R. 4:28-1(a) but cannot be served with process, the court shall determine whether it is appropriate for the action to proceed among the parties before it, or should be dismissed, the absent person being thus regarded as indispensable....” The alleged perpetrators are indispensable parties pursuant to R. 4:28-1.

When they are joined, as they must be, each purported abuser would be represented by their own counsel or would proceed pro se. Upon receiving any noticed of deposition in an MCL litigation, all such counsel or self-represented applicants would need to attend every other deposition to be aware of any testimony by any particular deponent that could negatively affect their position and to object as necessary. See, e.g., R. 4:11-1(d), R. 4:16-1(b) and R. 4:16-1(c). To require numerous attorneys and pro se parties to attend depositions involving facilities and alleged abusers that are not involved in their case would be cumbersome and inefficient. It also would be prejudicial and unfair to the State, as it would inject unnecessary complications into scheduling and conducting the depositions of each plaintiff and other discovery. The State is entitled to defend the claims against it in each given lawsuit without the inevitable distractions and delays caused by multiple attorneys and pro se third-party defendants participating in every deposition and other discovery processes in an MCL.

Frequently, centralized litigation has increased the cost and prejudice to the defendant while overburdening courts and disincentivizing the actual work that moves cases through

dockets. As stated in In re Mentor Corporation ObTape Transobturator Sling Products Liability

Litigation:

Although one of the purposes of MDL consolidation is to allow for more efficient pretrial management of cases with common issues of law and fact, the evolution of the MDL process toward providing an alternative dispute resolution forum for global settlements has produced incentives for the filing of cases that otherwise would not be filed if they had to stand on their own merit as a stand-alone action. Some lawyers seem to think that their case will be swept into the MDL where a global settlement will be reached, allowing them to obtain recovery without the individual merit of their case being scrutinized as closely as it would if it proceeded as a separate individual action.

2016 U.S. Dist. LEXIS 121608, *5 (M.D. Ga. Sept. 7, 2016).

Upon information and belief, the Superior Court is currently addressing many dozens, and perhaps hundreds, of separate lawsuits in many separate counties, in which individual plaintiffs allege antiquated claims of sexual assault.

Further, given the uniqueness of each applicants' allegations, there is no risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion. For instance, any motions relating to whether a given applicant's claims are time-barred under the applicable statute of limitations would depend on the accrual date of the given applicant's causes of action. As noted above, no applicant alleges his or her accrual dates in the complaints. The decisions of the courts in these lawsuits as to any such motions will depend on each applicant's unique accrual date and thus will not result in duplicative or inconsistent rulings.

Moreover, there is no value interdependence between different claims here. As shown herein, each applicant's claims arise from separate and unique circumstances involving different allegations of the types of abuse, frequency of abuse, alleged abusers, potential witnesses, facilities, time frames, injuries and damages. Thus, "allegations concerning statewide policies and practices" do not warrant MCL designation, as applicants suggest in their March 12, 2025 application (at 2).

Quite the contrary. The application of State, YJC, DHS, DOC and facility-specific policies by different personnel at eleven different State facilities (as well as at private facilities) over the course of five decades underlines that MCL designation is unwarranted.

In addition, these cases do not require specialized expertise and case processing as would be provided by a dedicated MCL judge and staff. The complaints' CSAA, negligence and constitutional claims are not so specialized or unusual as to require a judge and staff with special expertise.

Finally, here, there is no "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." Applicants are all represented by one law firm, Levy Konigsberg, and one other law firm has filed a lawsuit alleging sexual abuse at NJTS-Jamesburg. The State is represented by one special counsel, Riker Danzig LLP, and the Office of the Attorney General, Division of Law. Further, there are no related matters pending in federal court or in other state courts that require coordination with a single New Jersey judge.

3. Additional reasons why MCL designation is not warranted

As shown above, there is no compelling need for an MCL here under the Directive #02-19 factors. Further, no New Jersey Court Rule permits the centralization in one MCL action of the separate, distinct and individual claims asserted in the 3,337 paragraphs and 570 pages of the ten complaints. See, e.g., R. 4:28 (joinder of parties); R. 4:29-1 (permissive joinder). And no Court Rule can supersede N.J.S.A. 2A:14-2b(c)(1) and its individual prosecution requirement. Pursuant to that statute, the New Jersey Legislature has expressly required with respect to sexual abuse actions that:

Every action at law for an injury [from sexual abuse] that is commenced pursuant to this section shall proceed on an individual basis, and not proceed on behalf of a

class in a class action, due to the particular circumstances, source of injury and its discovery, and damages relating to each occurrence or occurrences of sexual assault....

N.J.S.A. 2A:14-2b(c)(1) (emphasis added). The prohibition also is contained at N.J.S.A. 2A:14-2a(c)(1).

Thus, the Legislature has recognized the uniqueness of each sexual abuse plaintiff's claims and the discovery attendant thereto. The statute provides that every action "shall proceed on an individual basis", not simply that every action shall be tried on an individual basis. Id. (emphasis added). Centralization of these lawsuits in an MCL for discovery and case management purposes would contravene the Legislature's mandate that every action at law for an injury from sexual abuse proceed on an individual basis. An MCL designation would incorrectly permit the 202 plaintiffs and an unknown number of potential plaintiffs to proceed through discovery and dispositive and non-dispositive motion practice not on an individual basis, but rather as a class action in all but name only.

In addition, applicants' MCL request does not find support in New Jersey law. Indeed, the only case cited in the Comment to R. 4:38A, Aetna Cas. & Sur. Co. v. Ply Gem Indus., Inc., 343 N.J. Super. 430 (App. Div. 2001), does not support their request. That case involved a single product, namely fire-retardant plywood. Id. at 433-34. It thus was consistent with the MCLs addressed above and in exhibit B hereto. It did not involve highly individualized claims, discovery and issues such as the present cases' sexual abuse allegations against many alleged abusers at numerous facilities operated by multiple State agencies over the course of decades.

In addition, applicants' reliance on In re: The Glen Mills School Litigation, Mass Tort Program, Docket no. 900 (Phila. Ct. Common Pleas), is misplaced. Of course, the decision of one judge in the Philadelphia Court of Common Pleas under that court's "mass tort" program does

not bind the New Jersey Supreme Court in its consideration of applicants' request under R. 4:38A and Directive #02-19. Further, the Glen Mills defendant did not oppose the plaintiffs' mass tort designation petition – unlike here, where the State has opposed applicants' request for all of the reasons set forth herein. (Please see [The Legal Intelligencer](#) article on Lexis)

IV. Conclusion

For the foregoing reasons, the State respectfully requests that the Court deny applicants' MCL designation request.

Respectfully submitted,

s/Edwin F. Chociey, Jr.

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Exhibit A

Directive #02-19 states in relevant part:

In determining whether designation as multicounty litigation is warranted, the following factors, among others, will be considered:

- whether the case(s) possess(es) the following characteristics:
 - it involves large numbers of parties;
 - 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;
 - there is geographical dispersment of parties;
 - there is a high degree of commonality of injury or damages among plaintiffs;
 - there is a value interdependence between different claims, that is, the perceived strength or weakness of the causation and liability aspects of the case(s) are often dependent upon the success or failure of similar lawsuits in other jurisdictions; and
 - there is a degree of remoteness between the court and actual decisionmakers 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.
- 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;
- whether centralized management is fair and convenient to the parties, witnesses and counsel;
- whether there is a risk of duplicative and inconsistent rulings, orders or judgments if the cases are not managed in a coordinated fashion;
- whether coordinated discovery would be advantageous;
- whether the cases require specialized expertise and case processing as provided by the dedicated multicounty litigation judge and staff;

- whether centralization would result in the efficient utilization of judicial resources and the facilities and personnel of the court;
- whether issues of insurance, limits on assets and potential bankruptcy can be best addressed in coordinated proceedings; and
- whether there are related matters pending in Federal court or in other state courts that require coordination with a single New Jersey judge.

Exhibit B

Atlantic County MCLs

1. Abilify: “Abilify® is an atypical antipsychotic medication prescribed to treat schizophrenia, major depressive disorder, bipolar I, irritability associated with autistic disorder and Tourette’s disorder.” (<https://www.njcourts.gov/multicounty-litigation/abilify/case-information>)

2. Physiomes: “Physiomes Flexible Composite Mesh (“Physiomes”) is a polypropylene-based mesh prosthetic designed for the repair of hernias.” (<https://www.njcourts.gov/multicounty-litigation/physiomes/case-information>)

3. Proceed Surgical Mesh/Proceed Ventral Patch: “Proceed Surgical Mesh and Proceed Ventral Patch are polypropylene-based mesh prosthetics designed for the repair of hernias.” (<https://www.njcourts.gov/multicounty-litigation/proceed-surgical-meshproceed-ventral-patch/case-information>)

4. Prolene Hernia System Mesh: “The Prolene Hernia System Mesh is a polypropylene-based mesh prosthetics designed for the repair of hernias.” (The Prolene Hernia System Mesh is a polypropylene-based mesh prosthetics designed for the repair of hernias.” (<https://www.njcourts.gov/multicounty-litigation/prolene-hernia-system-mesh/case-information>)

5. Proton-Pump Inhibitors: “Proton-Pump Inhibitors (PPI) have been marketed for use in the prevention and treatment of acid-related conditions such as Gastroesophageal Reflux Disease.” (<https://www.njcourts.gov/multicounty-litigation/proton-pump-inhibitors/case-information>)

6. Singulair: “Singulair is a drug used to treat asthma and allergies.” (<https://www.njcourts.gov/multicounty-litigation/singulair/case-information>)

7. Strattice-Hernia-Mesh: “The Strattice Hernia Mesh is a biologic hernia mesh product designed for the repair of hernias.” (<https://www.njcourts.gov/multicounty-litigation/strattice-hernia-mesh/case-information>)

8. Talc-Powder: “Talc is a mineral mainly consisting of the elements magnesium, silicon and oxygen. Talcum powder is made from talc. It absorbs moisture and helps cut down

on friction. It is used in cosmetic products such as baby powder and adult body powders. The talc-based body powders at issue are Johnson's Baby Powder and Shower to Shower." (<https://www.njcourts.gov/multicounty-litigation/talc-powder/case-information>)

Bergen County MCLs

1. Allergan Biocell Textured Breast Implants: "Allergan Biocell Textured Breast Implants are products alleged to cause breast implant-associated anaplastic large cell lymphoma." (<https://www.njcourts.gov/multicounty-litigation/allergan-biocell-textured-breast-implants/case-information>)

2. Bard Implanted Port Catheter Products: "Bard Implanted Port Catheter Products are devices used to facilitate the delivery of medications into a patient's bloodstream." (<https://www.njcourts.gov/multicounty-litigation/bard-implanted-port-catheter-products/case-information>)

3. DePuy ASR Hip Implant: "ASRT hip implants are designed, manufactured, marketed and sold by DePuy Orthopaedics, Inc. ('DePuy'), an Indiana corporation that is a subsidiary of Johnson & Johnson, a New Jersey corporation." (<https://www.njcourts.gov/multicounty-litigation/depu-asr-hip-implant/case-information>)

4. Elmiron: "Elmiron is a drug used to treat patients suffering from Interstitial Cystitis, a chronic medical condition that causes bladder pressure and pain." (<https://www.njcourts.gov/multicounty-litigation/elmiron/case-information>)

5. Pelvic Mesh – Bard: "Pelvic mesh products are intended to provide support for prolapsed pelvic organs and/or the urethra when a woman's supporting muscles and tissue have been weakened due to age and other causes." (<https://www.njcourts.gov/multicounty-litigation/pelvic-mesh-bard/case-information>)

6. Pelvic Mesh – Gynecare: "Pelvic mesh products are intended to provide support for prolapsed pelvic organs and/or the urethra when a woman's supporting muscles and tissue have been weakened due to age and other causes." (<https://www.njcourts.gov/multicounty-litigation/pelvic-mesh-gynecare/case-information>)

7. Pinnacle Metal-on-Metal (MoM) Hip Implants: "Pinnacle Metal-on-Metal (MoM) hip implants are designed, manufactured, marketed, distributed, and sold by Johnson and Johnson and Depuy Synthes Sales, Inc." (<https://www.njcourts.gov/multicounty-litigation/pinnacle-metal-metal-mom-hip-implants/case-information>)

8. Stryker Hip/ABG II: "Stryker Rejuvenate Hip Stem and the ABG II Modular Hip Stem are manufactured by Howmedica Osteonics Corporation, a New Jersey corporation d/b/a Stryker Orthopaedics, hereinafter, HOC." (<https://www.njcourts.gov/multicounty-litigation/stryker-hipabg-ii/case-information>)

9. Stryker LFIT CoCr V40 Femoral Heads: "The Stryker LFIT Anatomic Cobalt Chromium (CoCr) V40 femoral head is a type of prosthetic hip replacement device that has been

marketed and sold by Howmedica Osteonics Corporation (HOC) since 2001. It is used with a variety of femoral stems offered by HOC. The stem/head combination can be used with a variety of acetabular inserts and cups manufactured by HOC.” (<https://www.njcourts.gov/multicounty-litigation/stryker-lfit-cocr-v40-femoral-heads/case-information>)

10. Tasigna: “Tasigna is a drug used to treat chronic myeloid leukemia.” (<https://www.njcourts.gov/multicounty-litigation/tasigna/case-information>)

Middlesex County MCLs

1. Asbestos: “The term asbestos describes several naturally occurring mineral fibers, of which chrysotile, amosite, anthophyllite and crocidolite are commercially important. The fiber, which was used for centuries, is a unique thermal insulator, capable of withstanding very high temperatures without burning. In addition, some grades of asbestos fiber were woven into cloth.” (<https://www.njcourts.gov/multicounty-litigation/asbestos/case-information>)

2. Fosamax: “Fosamax is a bisphosphonate (i.e., drug that inhibits bone thinning and deterioration) manufactured and marketed by Merck and approved by the FDA in 1995 primarily to treat and prevent osteoporosis.” (<https://www.njcourts.gov/multicounty-litigation/fosamax/case-information>)

3. Taxotere/Docetaxel: “Taxotere (docetaxel) is a chemotherapy used for the treatment of cancer, including breast cancer.” (<https://www.njcourts.gov/multicounty-litigation/taxoteredocetaxel/case-information>)

4. Zostavax: “Zostavax is a vaccine that seeks to prevent shingles in adults.” (<https://www.njcourts.gov/multicounty-litigation/zostavax/case-information>)

Archived MCLs

1. Accutane: “This litigation involves suits brought against the manufacturer and others of the drug commonly called Accutane for alleged damages and injuries caused by its ingestion.” (<https://www.njcourts.gov/multicounty-litigation/accutane/case-information>)

2. AlloDerm: “AlloDerm Regenerative Tissue Matrix (‘AlloDerm’) is a banked human tissue graft product developed, manufactured and marketed by the New Jersey firm LifeCell. It is a human cell and tissue-based product and thus is not classified by the FDA as a medical device, biologic product or drug. It is used to remodel into a range of functional tissues in the human body that provide structural support.” (<https://www.njcourts.gov/multicounty-litigation/alloderm/case-information>)

3. Benicar: “Olmesartan medoxomil is an angiotensin II receptor blocker approved by the FDA for the treatment of high blood pressure. It is marketed as Benicar, Benicar HCT, Azor, and Tribenzor.” (<https://www.njcourts.gov/multicounty-litigation/benicar/case-information>)

4. Bristol Myers Squibb Environmental: “For this Mass Tort plaintiffs allege various damages on account of alleged environmental contamination over a period of 103 years at or

emanating from certain property of Bristol-Meyers Squibb in New Brunswick, New Jersey. The complaints allege that the contamination has and will in the future affect public and residential property and those living, working or visiting the area.” (<https://www.njcourts.gov/multicounty-litigation/bristol-myers-squibb-environmental/case-information>)

5. Firefighter Hearing: “This litigation involves current and retired firefighters who allege they suffered occupational hearing loss as a result of excessive noise exposure from certain fire engine sirens designed and manufactured by the Federal Signal Corporation.” (<https://www.njcourts.gov/multicounty-litigation/firefighter-hearing/case-information>)

6. HealthPlus Surgery Center: “This litigation involves plaintiffs alleging injuries resulting from lapses in infection control in sterilization/cleaning of instruments used during medical procedures at HealthPlus Surgery Center.” (<https://www.njcourts.gov/multicounty-litigation/healthplus-surgery-center/case-information>)

7. Levaquin: “Levaquin is an antibiotic, manufactured by Johnson and Johnson (‘J&J’) subsidiary Ortho-McNeil Pharmaceutical, Inc. (‘Ortho’), a New Jersey corporation.” (<https://www.njcourts.gov/multicounty-litigation/levaquin/case-information>)

8. Mirena: “Mirena® is an intrauterine contraceptive system, more commonly known as an IUD, that was approved by the FDA for use in the United States in 2000. It is designed, manufactured, marketed, and sold in the United States by Bayer Healthcare Pharmaceuticals, Inc., a New Jersey corporation, and other Bayer entities. Mirena® is a small T-shaped device made of soft flexible plastic that is inserted into a uterus and releases levonorgestrel to prevent pregnancy for up to five years. It is also used to treat heavy menstrual bleeding in women who choose IUD contraception.” (<https://www.njcourts.gov/multicounty-litigation/mirena/case-information>)

9. Pompton Lakes Environmental Contamination: “Suit by current and former residents of Pompton Lakes, Passaic County, New Jersey, seeking damages for environmental contamination allegedly caused by the defendant corporations.” (<https://www.njcourts.gov/multicounty-litigation/pompton-lakes-environmental-contamination/case-information>)

10. Propecia: “Propecia® (also known by its active ingredient Finasteride) was approved by the FDA in 1997 as a treatment for male pattern hair loss. Propecia® prevents the conversion of testosterone to dihydrotestosterone (DHT) in the body, which has been implicated in the balding process.” (<https://www.njcourts.gov/multicounty-litigation/propecia/case-information>)

11. Reglan: “Reglan is the trade name for metoclopramide, a drug used to treat gastrointestinal problems, such as heartburn, gastric reflux, nausea associated with migraines or cancer treatments, pregnancy-related morning sickness, or to assist infants in the digestion of formula.” (<https://www.njcourts.gov/multicounty-litigation/reglan/case-information>)

12. Risperdal/Seroquel/Zyprexa: “This litigation involves claims filed largely against the manufacturers of these pharmaceuticals for alleged damages and injuries arising from their use.” (<https://www.njcourts.gov/multicounty-litigation/risperdalseroquelzyprexa/case-information>)

13. Stryker Trident Hip Implants: “Stryker Trident Hip Implants are manufactured by Howmedica Osteonics Corporation, a New Jersey corporation and doing business as Stryker Orthopaedics (hereinafter referred to as “Stryker”).” (<https://www.njcourts.gov/multicounty-litigation/stryker-trident-hip-implants/case-information>)

14. Yaz/Yasmin/Ocella: “Suits against Bayer and Barr Pharmaceuticals for injuries and damages allegedly arising from the use of the oral contraceptives Yaz, Yasmin and the generic drug Ocella.” (<https://www.njcourts.gov/multicounty-litigation/yazyasminocella/case-information>)