

NOTICE TO THE BAR

MULTICOUNTY LITIGATION APPLICATION -- NEW JERSEY STATE COURT LITIGATION INVOLVING HEALTHPLUS SURGERY CENTER

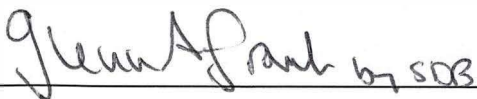
The Supreme Court has received an application pursuant to Directive #02-19, "Multicounty Litigation Guidelines and Criteria for Designation (Revised)," for Multicounty Litigation (MCL) designation of New Jersey state-court litigation against HealthPlus Surgery Center alleging injuries due to lapses in infection control in sterilization/cleaning of instruments used during medical procedures at the facility. The MCL application was submitted by counsel for plaintiffs. The application requests that if the designation is approved, the MCL be assigned to the Bergen vicinage.

Anyone wishing to comment on or object to this application should provide such comments or objections in writing, with relevant supporting documentation, by **November 15, 2019 to:**

Hon. Glenn A. Grant
Acting Administrative Director of the Courts
Attention: MCL Comments – HealthPlus Surgery
Hughes Justice Complex, P.O. Box 037
Trenton, New Jersey 08625-0037

Comments or objections may also be submitted by email to Comments.mailbox@njcourts.gov.

A copy of the application submitted to the Court is posted with this Notice on the Judiciary's Internet Website at (www.njcourts.gov) in the Multicounty Litigation Information Center <https://www.njcourts.gov/attorneys/mcl/index.html>.



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

Dated: October 1, 2019

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WILLIAM L. GOLD*
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Civil Practice Division

August 22, 2019

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VIA FEDERAL EXPRESS

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

Re: HealthPlus Surgery Center Litigation
Our Dockets: BER-L-28-19; BER-L-689-19; BER-L-691-19;
To Date BER-L-1315-19; BER-L-1535-19;
BER-L-268-19; BER-L-2725-19;
BER-L-5470-19; BER-L-5475-19;
BER-L-5483-19
Related Dockets: BER-L-5770-18; ESX-L-74-19;
ESX-L-1037-19; ESX-L-1333-19;
ESX-L-1911-19; BER-L-2457-19;
ESX-L-713-19

Dear Judge Grant:

This letter is submitted on behalf of a growing number of Plaintiffs regarding a related lawsuits filed against HealthPlus Surgery Center in Bergen County and Essex County, New Jersey, as well as related cases in the United States District Court in Newark, New Jersey. The purpose of this letter is to request a case classification as Multicounty Litigation, pursuant to New Jersey Court Rule 4:38A.

BACKGROUND

Each of the cases listed above involves serious personal injuries that have resulted from lapses in infection control in sterilization/cleaning of instruments at the HealthPlus Surgery Center located at 190 Midland Avenue in Saddle Brook, New Jersey.

Each of the plaintiffs involved received a procedure at the HealthPlus Surgery Center between January 1, 2018 and September 7, 2018. Thereafter, they received a letter via certified mail from the HealthPlus Surgery Center, indicating:

An investigation by the New Jersey Department of Health revealed that during this time period, lapses in infection control in sterilization/cleaning instruments and the injection of medications may have exposed patients to blood born pathogens (diseases in people's blood), such as hepatitis B, hepatitis C, and human immunodeficiency virus (HIV).

WHY COORDINATION IS APPROPRIATE

Our office is currently retained by approximately 80 plaintiffs who have been injured as a result of HealthPlus Surgery Center's negligence. We are aware that other law firms have additional plaintiffs as well, and we are notifying them of this request for multicounty litigation classification by way of this letter. There are an estimated 3,800 people affected by HealthPlus Surgery Center's negligence in this regard.

The plaintiffs identified to date are geographically dispersed. Our current plaintiffs reside in Bergen County, Essex County, and New York State. Additional plaintiffs may expand the geographical locations beyond these parameters.

We believe centralized management would be fair and convenient to all parties, witnesses, and counsel. The cases will involve the same legal theories, and most likely the same experts. The cases will be subject to the same motions, and would benefit from consolidated Court Orders. Moreover, should the cases be tried separately, they may result in inconsistent Court Orders and rulings, despite having largely the same fact pattern and liability. Indeed, coordinated discovery would facilitate the resolution of the cases.

Additionally, at this time, issues remain as it pertains to insurance, limits on assets, and potential bankruptcy, which would be best addressed as a whole through coordinated proceedings. The resolution of such issues will affect each case. The issue of insurance coverage is currently being litigated in the cases filed in Federal Court.

Class actions lawsuits were filed in the State Superior Court, and thereafter removed to Federal Court. However, to the extent

that the cases stay in Federal Court, the related matters will require coordination with a single New Jersey judge.

WHY BERGEN COUNTY IS AN APPROPRIATE MASS TORT VENUE

Presently, these cases are filed and pending before a number of different Judges in Bergen County. Issues of fairness, geographical location of the parties and attorneys, and the existing civil and mass tort caseload in the vicinage should be considered to determine which vicinage a mass tort will be assigned to for centralized management.

Plaintiffs believe that Bergen County is the best suited for this litigation. While Atlantic and Middlesex counties also have mass tort capabilities, Bergen County is closest to all plaintiffs, plaintiffs' counsel, defense counsel, and the defendant HealthPlus Surgery Center was located in Bergen County. The majority of cases filed in the Superior Court are venued in Bergen County, save for a few Complaints filed in Essex County. However, Essex County is closer to Bergen County than the other mass tort centralization options.

For the foregoing reasons, we respectfully request the above captioned cases be classified as Multicounty Litigation centralized in Bergen County.

Respectfully,


ALAN ROTH

AR/

cc: Robert L. Polifroni, P.J.S.C. via eCourt
Rachelle L. Harz, J.S.C. via eCourts
Mary F. Thurber, J.S.C. via eCourts
Avis Bishop-Thompson, J.S.C. via eCourts
Walter F. Skrod, J.S.C. via eCourts
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<u>LAST NAME</u>	<u>FIRST NAME</u>	<u>JUDGE</u>	<u>DOCKET NUMBER</u>
De Benedictis	Kristen	Mary F. Thurber, J.S.C.	BER-L-28-19
Kinlock	David	Rachelle L. Harz, J.S.C.	BER-L-268-19
Yartey	Daniel	Avis Bishop-Thompson, J.S.C.	BER-L-689-19
Whetstone	Dena	Avis Bishop-Thompson, J.S.C.	BER-L-691-19
Alvarez	Giovanna	Walter F. Skrod, J.S.C.	BER-L-1315-19
Assent	Anthony	Walter F. Skrod, J.S.C.	BER-L-1315-19
Barnes	Cherese	Walter F. Skrod, J.S.C.	BER-L-1315-19
Balfour	Lloyd	Walter F. Skrod, J.S.C.	BER-L-1315-19
Bergollo	Wendy	Walter F. Skrod, J.S.C.	BER-L-1315-19
Bermudez	Elsa	Walter F. Skrod, J.S.C.	BER-L-1315-19
Bermudez	Maria	Walter F. Skrod, J.S.C.	BER-L-1315-19
Browder	Lovelean	Walter F. Skrod, J.S.C.	BER-L-1315-19
Brown	Eugene	Walter F. Skrod, J.S.C.	BER-L-1315-19
Bueno	Ana	Walter F. Skrod, J.S.C.	BER-L-1315-19
Castillo	Mercedes	Walter F. Skrod, J.S.C.	BER-L-1315-19
Colon	Carolyn	Walter F. Skrod, J.S.C.	BER-L-1315-19
Cruz	Sonia	Walter F. Skrod, J.S.C.	BER-L-1315-19
Douglas	Shauna	Walter F. Skrod, J.S.C.	BER-L-1315-19
Elgueta	Mario	Walter F. Skrod, J.S.C.	BER-L-1315-19
Encarnacion	Domingo	John D. Odwyer, J.S.C.	BER-L-1535-19
Espinoza	Sandra	John D. Odwyer, J.S.C.	BER-L-1535-19
Figueroa	Cenia	John D. Odwyer, J.S.C.	BER-L-1535-19
Greenridge	Leneaur	John D. Odwyer, J.S.C.	BER-L-1535-19
Harris	Yvonne	John D. Odwyer, J.S.C.	BER-L-1535-19
Henry	Kendra	John D. Odwyer, J.S.C.	BER-L-1535-19
Jacobs	Teaserlene	John D. Odwyer, J.S.C.	BER-L-1535-19
Kirby	Larissa	John D. Odwyer, J.S.C.	BER-L-1535-19
Lewis	Michael	John D. Odwyer, J.S.C.	BER-L-1535-19
Palacio	Trino	John D. Odwyer, J.S.C.	BER-L-1535-19
Mena	Santo	John D. Odwyer, J.S.C.	BER-L-1535-19
Mitchell	Sally	John D. Odwyer, J.S.C.	BER-L-1535-19
Phillips	Paul	John D. Odwyer, J.S.C.	BER-L-1535-19
Recarey	Margarita	John D. Odwyer, J.S.C.	BER-L-1535-19
Ricardo	Vivana	John D. Odwyer, J.S.C.	BER-L-1535-19
Rodriguez	Marlene	Mary F. Thurber, J.S.C.	BER-L-2725-19
Said	Paul	Mary F. Thurber, J.S.C.	BER-L-2725-19
Saldana	Leonardo	Mary F. Thurber, J.S.C.	BER-L-2725-19
Santana	Gisela	Mary F. Thurber, J.S.C.	BER-L-2725-19
Santiago	Janson	Mary F. Thurber, J.S.C.	BER-L-2725-19
Stridiron	Robert	Mary F. Thurber, J.S.C.	BER-L-2725-19
Suero	Ronny	Mary F. Thurber, J.S.C.	BER-L-2725-19
Voltaire	Dominique	Mary F. Thurber, J.S.C.	BER-L-2725-19
Whittaker	Ana	Mary F. Thurber, J.S.C.	BER-L-2725-19
Almonte	Milady	Mary F. Thurber, J.S.C.	BER-L-2725-19
Martinez	Sandra	Mary F. Thurber, J.S.C.	BER-L-2725-19

Reyes	Carlos	Mary F. Thurber, J.S.C.	BER-L-2725-19
Williams	Gabriel	Mary F. Thurber, J.S.C.	BER-L-2725-19
Quintero-Cardona	Leonardo	Mary F. Thurber, J.S.C.	BER-L-2725-19
Cruz	Marilyn	Mary F. Thurber, J.S.C.	BER-L-2725-19
Assent	Robin	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Ayala-Perez	Juan	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Campbell	Cheryl	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Fox	Wendy	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Flores	Faustino	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Martinez	Andres	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Guzman	Ramon	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Lazaro-Salas	Margarito	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Ramirez	Eric	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Rodriguez	Georgina	Robert L. Polifroni, J.S.C.	BER-L-5470-19
Hernandez	Maritz	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Santiago	Jose	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Simpson	Tsahi	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Soto	Rafaela	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Spencer Nee Khan	Marcia Carryn	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Stephen	Charles	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Tapia	Steven	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Vargas	Hilda	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Rosario	Gilberto	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Lewis	Carol	Robert L. Polifroni, J.S.C.	BER-L-5475-19
Raphael	Julie	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Konipo	Oumar	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Sosa	Sonia	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Sosa	Luis	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Angeles	Marino	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Angeles	Suzie	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Barnett	Richard	Robert L. Polifroni, J.S.C.	BER-L-5483-19
Cuesto	Marino	Robert L. Polifroni, J.S.C.	BER-L-5483-19